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Supreme Court, U.S.
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No. _____

IN THE SUPREME COURT OF THE UNITED STATES

PATRICE HARRIS,

Petitioner

vs.

HOMECOMINGS FINANCIAL SERVICES, INC./BANK ONE; NOVASTAR MORTGAGE, INC.; EXPRESS FINANCIAL SERVICES, INC.,

Respondents

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

I. Whether Due Process and Equal Protection Entitled Petitioner to Receive Notice that the Court Intended to Rely on Respondents' Supplemental Appendix and to Obtain Plenary Review

II. Whether a Directed Verdict May Be Used to Dismiss a Jury for Lack of Sufficient Evidence Where the Gravamen of the Claim Is Based on Clandestine Activities

III. Whether the 13th Amendment to the United States Constitution, through Title VIII of the Civil Rights Act of 1968 and the Fair Housing Amendment, 42 U.S.C. Section 1985 (3), is applicable to prohibit illegal lending practices and finance schemes against home purchasers

PARTIES TO THE PROCEEDINGS

All parties to the proceeding are listed in the caption. Express Financial Services did not participate in the trial court proceedings due to a stay in bankruptcy.

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IN THE SUPREME COURT OF THE UNITED STATES

PETITION FOR A WRIT OF CERTIORARI

Opinions Below

The opinion below is published at 2010 U.S. App. LEXIS 8595_____No. 09-3518. The opinion also appears in Appendix A, i-x of this document. The lower court opinion, 2:2007cv 00622 is unpublished.

JURISDICTION

The judgment of the court of appeals was entered on July 24, 2010. A petition for rehearing was denied on May 24, 2010. The petition for writ of certiorari was filed on Monday, August 23, 2010. The jurisdiction of this Court is invoked pursuant to 28 U.S.C. 1254.

Constitutional Provisions, Statutes and Rules

Article III

Section 2 The judicial power shall extend to all Cases, in Law and Equity, arising under this Constitution, the Laws of the United States,... which shall be made, under their Authority [and].....to Controversies between Citizens of different States.

Amendment V

No person shall be ...deprived of life, liberty, or property, without due process of law.

Amendment VII

In Suits at common law, where the value in

controversy shall exceed twenty dollars, the right of trial by jury shall be preserved.

Amendment XIII

Section 1. Neither slavery nor involuntary servitude, except as a punishment for crime ....shall exist within the United States, or any place subject to their jurisdiction.

Section 2. Congress shall have power to enforce this article by appropriate legislation

Amendment XIV

All persons born or naturalized in the United States are subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.

Statutes

42 U.S.C.

Title VIII Civil Rights Act of 1968

(Fair Housing Act)

Prohibits discrimination in the sale or rental, and financing of dwellings based on race, color, religion, sex, and national origin.

Fair Housing Amendment 42 U.S.C

Section 1985 Conspiracy to Interfere With Civil Rights

(3) Depriving persons of rights or privileges

If two or more persons ...conspire ...for the purpose of depriving, either directly or indirectly, any person or class of persons of the equal protection of the

right or privilege of a citizen of the United States...the party so injured or deprived may have an action... against any one or .or more of the conspirators.

73 P.S. 201 et seq. and the Catch-All Provision Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTPCPL)

Prohibits unfair and deceptive practices in the sale of goods or services.

Unfair or deceptive acts or practices may be:

(iii) causing likelihood of confusion or misunderstanding (iv) using deceptive representations

(xi) false or misleading statements of fact and, a catch-

all provision for fraudulent and deceptive acts.

Rules

Fed. R.C.P. 50(1) Judgment As A Matter of Law

If a party has been fully heard on an issue during a jury trial and the court finds that a reasonable jury would not have a legally sufficient evidentiary basis to find for the party on that issue, the court may: (A) resolve the issue against the part; and (B) grant a motion for judgment as a matter of law on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue.

3rd Cir. LAR 27.0 Uncontested Motions

Each uncontested motion must be certified as uncontested by counsel. In the absence of a timely response, the court may treat a motion without certification as uncontested.

3rd Cir. LAR Misc. 107.3 Non-Conforming Motion, Brief, or Appendix

If a motion, brief, or appendix submitted for filing does not comply with FRAP 27-32 or the 3d Cir. LAR 27.0-32.0, the clerk will file the document, but notify the party of the need to promptly correct the deficiency....If the party fails or declines to correct the deficiency, the clerk must refer the defaulting document, any motion or answer by the party, and pertinent correspondence to a judge of this court for review.

If the court finds that the party continues not to be in compliance with the rules despite the notice by the clerk, the court may, in its discretion, impose sanctions as it may deem appropriate, including but not limited to the dismissal of the appeal, striking of the document, imposition of costs or disciplinary sanctions upon counsel.

STATEMENT OF THE CASE

Plaintiff/Appellant/Petitioner Patrice Harris brought suit in the Philadelphia Court of Common Pleas against Defendants/Appellees/Respondents, Express Financial Services, NovaStar Mortgage, and Homecomings Financial Services by filing a writ of summons in September 2006. Plaintiff's complaint alleged violations of the Truth in Lending Act, "TILA", 15 U.S.C. 1601 et. seq., multiple violations of Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTPCPL) 73 P.S. 201 et seq. and the Catch-All provision, fraudulent misrepresentation, conspiracy, unjust enrichment, violation of plaintiff's 13th Amendment constitutional rights, (orally amended citing Title VIII of the Civil

Rights Act of 1969 and the Fair Housing Amendment, 42 U.S.C. Section 1985 (3) as the statutory basis) and abuse of process.

Defendant NovaStar removed the civil action to the United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C. Section 1332(a) and Section 1441 (a). After a lengthy and convoluted procedural history, a two-day jury trial was heard on June 8 and 9, 2010. Plaintiff/Appellant/Petitioner's expression of elation over her successful effort to obtain a jury trial was short lived. After the presentation of testimony and evidence of respondents' financial scheme which caused Petitioner's mortgage to default, the jury was spontaneously discharged and the trial judge allowed a Rule 50 Directed Verdict motion.

Petitioner filed a timely motion for a new trial, pursuant to F.R.C.P, 59 or in to alter the judgment in favor of plaintiff, pursuant to F.R.C.P 60. [APP. D, 1-liv] The motion was denied and petitioner filed a timely appeal, pursuant to 28 U.S.C Section 1291.

In her appeal, petitioner argued that the directed verdict, Fed. R.C.P 50, (The Rule) which was issued at the conclusion of evidence, was used as a pretext to dismiss the jury who had witnessed exculpatory evidence against respondents. Petitioner argued that the court erred by allowing defendants' motion and not giving the jury the appropriate instructions on the issue of a contract, the continuing harm caused which would negate defendants' statute of limitations argument, and instructions on the issue of causation. Finally, and most importantly, petitioner argued that the court

demonstrated bias, apparent impropriety, and disregarded her constitutional and civil rights claims. [APP. D, i-xxvii]

The circuit court affirmed the judgment of the district court and denied petitioner's motion for a new
trial. [APP. A, i] A petition for rehearing was denied May 24, 2010.

During the trial, petitioner complained of a predatory lending scheme which resulted in the loss of her home, and respondents' involvement with a network of parties, who under legal cover, used unfair and unlawful practices to intentionally cause the illegal foreclosure.

Petitioner presented evidence of fraud in the execution of a home mortgage, fraudulent bankruptcy proceedings, and misappropriation of funds, which eventually led to an illegal foreclosure on her home. Petitioner gave testimony and produced multiple documents to demonstrate how respondents tampered with legal documents, forged her signature, and committed accounting inconsistencies that resulted in overcharges, false escrow charges and excessive fees.

Background

Harris purchased the home, located at 6114 North 8th Street for $50,000 in December 1998, applying $10,000 savings for the initial down payment. Harris, had graduated from law school in 1990, married in 1992 shortly after passing the Pennsylvania bar exam. Harris has a B.A. MLS, and JD degree, and has worked as a school teacher/librarian for the past

When the home, was purchased, Harris at 48

was a single parent, recovering from domestic violence, and divorce, with resulting credit issues. Prior to the home purchase, Harris had cleared all credit issues except those from the defaulted school loans which had more than doubled during the post marriage period while she had been unable to work.

Harris financed the home with an adjustable rate of 11.25 % with plans to refinance in two years, the time set for the rate to go up, and to obtain a fixed rate. Harris experienced no payment problems for 2 years.

In September 2000, Harris called several mortgage lenders to inquire about refinancing. Several offers were declined because they were unable to offer a fixed rate. NovaStar called petitioner and agreed to a fixed rate at of 9.875%. The increase for payment of taxes and for charges on the loan was significant- 38,000 to 44,000. However, petitioner had agreed to a rate under the current 11.25%, but absolutely with a fixed payment, (with plans to pay off the mortgage and defaulted school loans in 5 to 10 years).

Respondents sent a "Mark Witmer" to do the closing. As petitioner looked over paperwork, she noted adjustable papers. A discussion on the agreement followed. Mark returned at a later date with a Truth in Lending document indicating payments at 324 for the duration of the loan.

Petitioner had unexplained issues with respondents on the payments with continual letters of defaults, and payment requests that petitioner believed she had already made. It took a while before she was able to clearly see that she had been defrauded on the loan. Petitioner temporarily

stopped making payments in September 2003 and was solicited by a attorney who agreed to handle the problems of the adjustable note and the false escrow charges. He recommended a Chapter 13 bankruptcy while the matter was being addressed. Petitioner reluctantly agreed. Prior to the relationship with respondents, petitioner had never had a bankruptcy.

As time went on, problems were noted with the attorney's handling of the matter. [APP. D, lxv, lxii-lxiii, lxiv] In September 2006, the attorney informed petitioner that he didn't handle predatory lending, and gave her the card of another attorney. Before contacting agencies for assistance to save her home, petitioner filed a complaint with the lawyer ethical board. Essentially, the reviewer informed petitioner that she spoke with the attorneys accused of colluding and, "they said there was no collusion"

After the case was filed in the Court of Common Pleas, petitioner experienced several illegal mishaps and contacted the Prothonotary and President Judge to have this illegal matter addressed. After one defendant removed the case to federal court, a mandatory arbitration was required and held on October 18, 2007 finding in favor of defendants. [APP. B, i], after which, petitioner renewed her request for trial by jury.

The facts of the case are heavily contested. According to petitioner, the predatory mortgage lending scam, derives its effectiveness from presumptions, mischaracterizations, and professional posturing of licensed fiduciaries who are skilled at keeping the true source of their cunningness hidden from the public's eye. This lends credence to stereotypical presumptions of ignorance,

and financial irresponsibility on the part of debtors, in this particular case, petitioner; both presumptions being untrue. Respondents are mortgage finance lenders/servicers.

The extent of detail required to explain how the predatory scheme worked is very involved and would require wording which exceeds the required limit. Therefore, in summary, this appeal involves petitioner's home, and her claim that it was sold illegally at the Philadelphia Sheriff auction in February 2007, after an elaborate and layered financial scheme by respondents, enabled under color of law.

ARGUMENT

The court of appeals erred in its decision to affirm the judgment of the district court in violation of petitioner's constitutional and civil rights. Predatory Lending is a matter of important national concern. There are conflicts with other circuit courts on the standard which determines the sufficiency of evidence test, and thus, the issue warrants review.

I. The Court's Failure to Inform Petitioner of Its Intent to Use Respondents' Joint Supplemental Appendix Was in Violation of Petitioner's Rights to Procedural and Substantive Due Process and Equal Protection of the Laws

A. Petitioner Was Not Given Proper and Adequate Notice

Under the 5th Amendment due process clause, petitioner should have received notice of the court's intention to rely on respondents' supplemental

appendix. The due process clause guarantees that no person shall be deprived of "life, liberty, or property without due process of law". *U.S.C., Amendment V.* The court's inaction on respondent's motion to use an incompliant document in support of their brief was not adequate and proper notice to petitioner and resulted in a briefing and scheduling Order [APP. A, xv-xvii] that went way off course.

In the process of waiting for answers to the appeal brief, the supplemental appendix submitted by respondents was "deficient" according to the local rules of the circuit court. [APP. A, xiii, xiv] The rule stated that failure to comply may be grounds for dismissal or other disciplinary sanctions. 3rd Cir. LAR Misc. 107.3

Specific Orders had been given by the court for defendant/appellees "to comply with rules regarding their documents". [APP. A, xiii-xiv] The order required 1) correction of deficiencies on the reply brief with respect to several missing items; and 2) correction of deficiencies of the appendix with respect to form. Furthermore, the order specified that "*no action would be taken on the documents until the error(s) has (have) been corrected*". [App. A-xiv]

Respondent subsequently corrected errors with the brief, and sometime later submitted a motion to the court to accept the supplemental appendix. However, there was no response from the court and petitioner did not receive any notice or further communication from the court concerning the resolution of the matter.

Petitioner's appellant brief had been filed on or before October 14, 2009, and appellees' brief was

due within 30 days of service. [APP. A, xvi] The date of the non-compliance Order was February 16, 2010, well pass the normal 14 day schedule for a reply brief, if any. The briefing and scheduling Order was thrown off course by respondent's non-compliance issues.

Petitioner anticipated communication based on the court's statement that "no action would be taken" until compliance was met and/or sanctions were imposed as stated in the order. [APP. A, xiii, xiv] Petitioner would then have had opportunity to prepare a reply brief. Therefore, the circuit court did not follow its own procedural rules by its inaction on the motion. Petitioner stood ready to oppose and proceed with a response. However, a letter dated April 8, 2010 came to petitioner's home a few days after her call to the clerk of the court inquiring about what action had been taken on the motion. The letter announced an appeal hearing on April 22, 2010. This did not afford petitioner adequate notice to meet the procedural time requirements listed in the circuit court rules to write a reply brief, nor challenge the documents included in the appendix.

In the last line of the opinion of the court, almost as if an afterthought in its affirmation of the district court judgment and denial of petitioner's motion for a new trial, the court granted respondents consent to use the supplemental appendix. "The appellees' unopposed motion to file a timely supplemental index is granted". [APP. A, xii] This was the court's first grant of permission for respondents to use the appendix. Petitioner was not "unopposed" to its use as the court misstates. 3rd Cir. L.A.R. 27.0

Petitioner, a pro se litigant lacking familiarity with the rules, had meticulously relied not only on the rules of law, but on instructions from the court as well. Petitioner's silence was no more consent to use of the appendix than the court's failure to respond to respondent's motion can be construed as consent. Furthermore, the court attached validity, and credence to respondent's documents, many of them fraudulent.

A review of the appendix provided by petitioner, which was submitted in compliance with the rules, presented evidence that supported claims of fraud and forgery by respondents. Petitioner's appendix was not used in the court's review. The court erred in allowing this after-the-fact permission, and for failing to give notice to petitioner. The court's use and reliance on respondents' documents as evidence, where petitioner was not given adequate notice and time to contest, was a violation of her rights to due process and adequate notice under the 5th Amendment to the United States Constitution. *U.S.C., Amendment V*

B. There Was No Actual Plenary Review

Petitioner's case did not receive actual plenary review on appeal and thereby she was denied her rights to equal protection of the laws under the 14th Amendment. *U.S.C., XIV Amendment*

The court cited *Gay v. Peastock, 917 F.2d 768, 771 (3d Cir. 1990),* as authority for the standard of review and held that review was plenary. [APP. vii] Contrary, to the required standard, the review by the court was anything but plenary. Plenary review would have been "full, complete, and unqualified". *Black's Law Dictionary, Fifth edition, 1969.*

The court makes repeated references to the supplementary appendix as the basis for its Opinion and affirmation of the district court judgment, and uses a compilation of misstatement that clearly favored respondents' view as presented in the appendix. Words such as "the evidence established" were used throughout the Opinion. Moreover, the appendix was cited as the authority for the establishment of that evidence.

The court simply repeated respondents' arguments, and accepted their documents at face value. The court's reliance on the documents as "established evidence" basically reinforced respondent's fraud and overlooked petitioner's claim. "The loan note and mortgage, the originals of which were introduced as evidence at trial, *established*" [APP. A, viii]..."loan documents p*roperly disclosed* the terms of the loan [APP. A, viii]... "She [Petitioner] did not credibly explain how her original signature appeared on the documents" [APP. A, ix], raising the issue of credibility counter to the operation of the directed verdict rule. *Fed R.Civ.Pro. 50(a)*

The documents provided by respondents were not originals. Respondent's inability and or unwillingness to produce original loan documents has been at the forefront of this legal battle. [APP. B, vi-xv, APP. D, xlix-l, xlvii-xlviii, xxxl, xxxiii] The court described "evidence established" by referencing the joint appendix "Supp. App. 258-263, Supp. App.198, Supp. App. 264-69, Supp. App 203, Supp. App. 209 [App. A, Such evidence was not established.

The points made by the court were clearly

contested matters, evidence and testimony having been put forth before the jury. The documents should not have been used as authoritative, rather than contested, to determine the outcome of the case.

The court's review favored "the moving party", in contrast to the correct application of a directed verdict, in that it relied on the supplemental appendix and respondents' briefs to determine the outcome of the appeal. Review was rash and speculative. Neither at trial, nor during the years proceeding, were there ever any "originals" of any adjustable note documents shown. [APP. B, vi-x] (Office of Attorney General), [B, xi-xiii](Federal Trade Commission), [B, xiv-xv] (PA Department of Banking), [D, xxxl] (Letter to City Hall Records Department Head). The documents produced over the course of the relationship were copies with evidence of tampering, white-out, and cut and paste.

Had review been plenary, certainly the court would not have stated, "Whatever caused Harris to default on the loan, it was not the adjustable feature". [APP. A, viii]. The adjustable rate was only one of the many acts complained about to defraud Petitioner. The jury had heard petitioner describe portions of her experience to understand "the whatever" more clearly and would have been able to discern the magnitude of the deception upon which she had conveyed.

Many of the statements and observations made by the appeals court were inaccurate and primarily based on materials in respondents joint appendix and briefs. These materials were not properly before the court due to the court's inaction on the noncompliance issue. Even if arguably they

were, the information provided therein should not have been the basis for the court's review as they clearly were, in violation of petitioner's rights to due process under the 5th Amendment and to equal protection of the law under the 14th Amendment.

II. Where the Gravamen of the Claim Involves Clandestine Activities, a Jury Determination Is Necessary to Determine the Sufficiency of the Evidence

A. The Directed Verdict was Rendered Improperly

The circuit court's affirmation of the directed verdict was error and in violation of petitioner's rights to a trial by jury under the 7th Amendment to the United States Constitution. Under the 7th Amendment, "the right to a trial by jury shall be preserved". *U.S.C. Amendment VII* Here, the application of this procedural rule should not have been allowed where petitioner's right to a fair trial was wholly dependent upon the objectivity of a jury of peers. [APP. D, lxv]

In deciding a motion under Rule 50, the trial court must treat non-movant's evidence as true, considering the evidence in the light most favorable to non-movant, and resolving all inconsistencies, contradictions and conflicts for non-movant, giving non-movant the benefit of all reasonable inferences drawn from the evidence. *Mc Fetters v. McFetters*, 98 N.C. App. 187, 390 S.E.2d 348 (1990) The jury was never given instructions on the applicable laws under which the action was brought and argued so as to resolve any conflicts. The court resolved that everything was "plainly established" and that in

favor of the moving party.

1. The Directed Verdict Was Used As Pretext

In the instant case, it was manifest that the directed verdict was used a pretext to dismiss the jury. During trial, respondent in his zeal to refute petitioner's testimony showed to the jury a freshly sealed document, allegedly the mortgage. The signature on the sealed forged "original" document was blatantly different from the earlier forged copy which respondents claimed to be the "original". Petitioner helped the jury see that the sealed documents were copies on fine paper made to appear as originals. Here, respondent gave an on the spot demonstration that not only were they capable of producing mass fraudulent documents, but they do it in fact.

The ability of respondents to make up documents was obvious and evident by the documents, which were facts to be weighed by the jury that respondents in fact did forge the loan documents, rendering them capable of the fraudulent and deceptive practices of which petitioner complained. The jury was able to observe respondent's aggressive attempt to prevent petitioner from showing the evidence to the jury. After respondent showed the clear, indisputable example of fraud, the whole tone of the case changed and the subsequent directed verdict issued. The dismissal of the jury was effectively an intrusion upon petitioner's constitutional rights under the 7th Amendment. "Rules of the Court are not given to abridge or modify any substantive right". Title 28 U.S.C. 2072(b). Under these circumstances, Rule 50

was not a lawfully used procedural tool.

2. Petitioner's Substantive Rights Were Violated By the Application of Rule 50

The Supreme Court has noted that the aim of the Seventh Amendment "is not to preserve mere matters of form and procedure, but substance of right". *Walker v Southern Pacific Railroad,* 165 U.S. 593, 596, 17 S.Ct at 422. As interpreted by the court in *Walker*, substance of right requires that questions of fact be settled by a jury. 165 U.S. at 596, 17 S.Ct. at 422. Petitioner had a not only a substance of right or substantive right in hearing the verdict from a jury of her peers, but an essential right due to the nature of the proceedings. Procedure was allowed to usurp petitioner's substantive rights to have an unbiased group of citizens hear the evidence, make credibility determinations and apply the law to the facts.

Although Rule 50 is not per se unconstitutional, its use should be limited where other constitutional rights may be negatively implicated. At no time does petitioner argue that Rule 50 per se violates the Seventh amendment, as the circuit court stated. [APP. A, vii] It is conceded that it does not violate the Seventh Amendment when used properly, and in the administration of justice. However, the application of the rule in the instant case was an improper use by the court to deny justice to petitioner. The gravamen of Petitioner's matter was the unlawful scheme. Petitioner had indicated to the court on several occasions that a jury was essential to her claim. Furthermore, the court had been placed on notice of

legal mishaps in the Court of Common Pleas that supported her contention. [APP. B, iii, D, xxii, xxxv-vi]

B. Courts Are Split On the Test of Sufficiency of Evidence to Create A Jury Question

Where there is conflict in the circuit courts as to the standard for evidence sufficiency, review is warranted. *In Hargraves v. Capital City Mortgage*, 140 F. Supp 2d 7(D.D.C. 2000), the court determined that whether lending practices are predatory and unfair is a question for the factfinder.

As petitioner's case demonstrates, illegal foreclosures are permitted with regularity. Petitioner's research showed that many of the dockets are marked as non pros. An expert investigator employed by the Pennsylvania Human Relations Commission established "the rapid growth of the urban sub-prime lending market and ...predatory lending target[ing][of] segregated urban areas." *McGlawn* The city of Philadelphia has become such a target. Petitioner read of well over 1200 foreclosures scheduled one month at a given sale. However, importantly, in *McGlawn*, the Commonwealth court had to look to outside of Pennsylvania, to other state court appellate decisions, because they could not find one determinative in Pennsylvania concerning what practices violated the Fair Housing Act. (citing *Hargraves v. Capital City Mortgage Corp.*, 140 F. Supp. 2d 7(D.D.C. 2000) Where you have a deregulated financial industry and a legal system that supports decisions such as the one in the instant case, citizens are prevented from obtaining

true justice, and mortgage lenders will continue to practice "business as usual".

1. Reliance on Galloway Was Misplaced

The application of *Galloway* to *justify* the discharge of the jury was therefore erroneous. The Supreme Court has held that [the 7th Amendment] "guaranty requires that the jury be allowed to make reasonable inferences from facts proven in evidence having a reasonable tendency to sustain them". *Galloway v. United States*, 319 U.S. 372 (1943). *Galloway*, in dicta, supports Petitioner's contention that her rights to a jury trial in the instant matter were violated. The directed verdict was allowed where key evidence upon which the jury could have inferred respondent's guilt had been presented and made available.

Here, petitioner presented substantial documentary evidence. The appendix, which accompanied the Appellant brief, lists myriad and varying documents financial inconsistencies, duplicate monthly statements, transaction history, evidence of forgery, and other evidence of the deceptive practices of respondents, many of which were shown to the jury.

The Court's assertion that "given the number of loan document Harris executed no reasonable jury could have returned a verdict" is erroneous and against the weight of evidence. Petitioner had no control over the number of forged documents produced by respondents -two or two hundred. Petitioner had expressed concern that the jury be not overwhelmed with paper, a tactic repeatedly used by respondents, and one that the court apparently

"bought into". It is a fact that respondents presented an enormous amount of documents. But what was clear to the jury was the demonstration during trial where respondent, zealous to present multitude of documents began to present documents that indicated fraud with more clarity than those initially presented by petitioner. The appeals court therefore, misapprehended the district court's allowance of the directed verdict.

C. Where a Fiduciary's Use of Deceptive Practices Is in Question, Equitable Tolling and the Discovery Rule Is A Jury Question

During the trial, petitioner argued that predatory lending schemes are designed to be undiscoverable. The multiple layers of deception make it extremely difficult for the average homeowner to figure out what happened, which party is responsible, and to show proof. The legislative purpose behind UTPCPL, was predicated on the realization that the fiduciary position of mortgage lenders gives them opportunity for massive deceit against consumers, and thus provided for that by the 6 year catch-all statute of limitations. *73 P.S. 201 et seq. and the Catch-All Provision (UTPCPL)* Petitioner was very precise in her presentation of evidence and in her explanation of the history that led to her discovery, and the continuing acts by respondent once discovery was had that further compounded the delay of the trial. Petitioner should not have been barred from bringing her claim.

The Court relied on *Wilson V. Garcia*, 471 U.S. 261, for its characterization of petitioner's

claims as a "constitutional personal injury", and applied a two year statute of limitation. Justice O'Connor in her dissent foresaw the problem of using this type of broad analogy to civil rights claims, and thus the court should also see the injustice in the instant case.

This personal injury characterization of petitioner's claim is misplaced. Where the UTPCPL has a 6 year statute of limitations, the complexity of the petitioner's claims warrant the broad discretion intended by the Civil Rights Act. The court's personal injury analogy is a trivialization of plaintiff's claims and a scoff at the purpose and operation of laws designed for the protection of the consumers, against deceptive business practitioners.

The court mistakenly cited 42 U.S.C. Section 1983 as the basis for petitioner's claim. Petitioner's action was predicated on 42 U.S. C. 1985 (3). The court also relied on *Santos ex rel. Beato v. United States*, 559 F.3d 189, 197 (3d Cir. 2009) In *Santos*, the dissent stated, "procedural requirements established by Congress are not to be disregarded...In the long run, experience teaches that strict adherence to the procedural requirements specified by the legislature is the best guarantee of even-handed administration of the law". (*citing Baldwin County Welcome Center v. Brown, 466 U.S. 177 (1984)*

1. Causation

The appeals court stated that petitioner did not prove causation on "the one claim that survived the statute". It reasoned that "petitioner's default was not caused by the adjustable rate", a

meaningless observation in the context of the claim. Petitioner never argued that it was the adjustable rate that caused the default, but that the evident fraudulent adjustable note, coupled with a other deceptive acts, and misappropriation of funds, caused the default. The forged adjustable rate note was one of a many pieces of documentary evidence of the respondent's deceptive practices.

The court concluded that "in order for the discovery rule to apply, petitioner had to prove that she was actively misled". [APP. A, ix] The Court further opinioned that the unjust enrichment claim would not lie because the mortgage was a contract. The court on its own determined that a contract existed because there were "so many documents" "At trial, defendants and Harris introduced a number of contract documents,..."which plainly established that the relationship was contractural" [APP. A, xi] and rejected the unjust enrichment claim on that basis.

Questions should have been put before the jury to determine among other things, was there a contract where there was never mutuality or a meeting of the minds, was there ever a meeting of the minds, whether the alleged alterations were in fact forgeries when did the statute of limitations begin to run, whether "equitable tolling" was warranted, if and when the "discovery rule" was applicable, and if respondent's acts were of a "continuing wrong" nature, whether there was an operative contract and what were the terms.

2. Judicial Presumption

The decision of the court was not based on a review of the evidence but was based on judicial presumption. In *North Philadelphia Trust Co. v.*

Smith, 12 F2d 585, 1926, the court held that where there is a question of an instrument alteration, and the alteration exhibited itself on the face of the instrument, there can be no "judicial presumption ". Petitioner had testified that she never entered into an agreement for an adjustable rate, nor had signed any adjustable rate documents, then presented evidence of forgery. The question should have been put to the jury.

In the predatory cycle respondents realize that one's home is important, took full advantage of the lack of regulation and oversight by the law, in addition to taking advantage of petitioner's busy schedule and involvement as a full time employee, single parent and homemaker. The discovery rule was applicable in this instant case due to the ongoing acts of collusion and deception used by respondents. Petitioner provided to the jury, and in her complaint, samples of letters written over the course of years in an effort to seek assistance once she became aware of respondent's scheme. No stone was left unturned

Petitioner's constitutional rights should not have been subrogated to a procedural device used merely as a whim. In the instant case, Rule 50 was used to prevent the public, in the form of an objective jury, from operating in their appropriate capacity.

The Supreme Court in *Walker* held that procedural devices are to be used to promote efficacy in "the administration of justice". In the instant case, the Court used the device in an attempt to thwart justice. "The limitation imposed by the[7th] amendment is merely that the enjoyment of the right of trial by jury be not obstructed, and that the

ultimate determination of issues of fact by the jury be not interfered with." Walker timing issues, the constitutional considerations of Petitioner's case outweigh them, and were not addressed during the trial.

The ability to operate under various names, change names when the name becomes identified with predatory lending, and other tactics in operation of a presumption of lawfulness has yielded mass results to the destruction of our nation. .

In the instant case, the jury was discharged after evidence prejudicial to respondents was shown to the jury, and not because of any legal insufficiency in the evidence. In *Galloway,* the Court cited James Madison stating "a verdict should be directed, if at all, only when, without weighing the credibility of the witnesses, there is in the evidence no room whatever for honest difference of opinion." Petitioner and respondents expressed differing opinions prior to, and throughout, this litigation. Essentially, the directed verdict was the culmination of a host of unlawful and/or unethical devices used by respondents throughout the duration of their relationship

Respondent's were calculating in the manner to proceed on the term of the forged adjustable rate for several years. They moved it a little up and down, but waited until the statute of limitations was near tolling. Some of their deceptive practices transpired even before petitioner was aware of the adjustable note problem.

Petitioner showed the transaction history which shows monies that were never applied when respondents passed the account from NovaStar to

Homecomings, monthly statements issued twice in a month, monthly statements where the layout or the format would be changed, escrow charges for home insurance that was being paid directly by petitioner, and other tricks, which in combination, resulted in respondents succeeded in foreclosing on the home, but not before fraudulently obtaining many dollars. Petitioner had presented testimony and evidence to the jury of discrepancies, forgeries and bad faith practices. Therefore, the testimony and evidence should have been objectively weighed by them.

By its own admission, the court acknowledged contested issues of fact that should be weighed by the jury in its statement, "if the discovery rule applied...unjust enrichment claim might well be timely". [APP. A, x] Instead, the circuit court, as did the district court, substituted its own determination for that of the jury. In reference to the UTPCL claim, the court again interjected its weight of evidence in the statement that "a contractual agreement was "plainly established". [APP. A-xi)

Respondents succeeded in foreclosing on the home, but not before obtaining many dollars, through varied fraudulent and deceptive tactics. Clearly, it was not the "adjustable rate that *caused* the default as the court stated. Therefore, the discussion by the court as to the issue of timing with respect to discovery of the adjustable rate and other financial regulates was also meaningless in the context of petitioner's claim.

III. The XIII Amendment to the United States Constitution, through Title VIII of the Civil

Rights Act of 1968 and the Fair Housing Amendment, 42 U.S.C. Section 1985(3), Is Applicable to Prohibit Illegal Lending Practices and Finance Schemes Against Home Purchasers.

A. Petitioner's XIII Amendment Claim Was Not Addressed

A crucial challenge in Petitioner's case was that the methods employed against her by respondents are routinely used in the taking of homes, and, in effect, a method used to maintain involuntary servitude. *U.S.C, Amendment XIII* Respondents used manipulation and fraudulent financial ingenuity, to create mass confusion and paperwork, under color of law. Accompanied by support from the legal system and using various participants, respondents deceptively are able to amass huge sums of money by citizens who will go to great lengths to keep their homes.

Under the 13th Amendment, Title VIII of the Civil Rights Act of 1968 and the Fair Housing Amendment 42 U.S.C Section 1985(3), a conspiracy to defraud for the purpose of depriving, either directly, or indirectly, a person of a protected class and does an act in furtherance and the person is deprived of property, they may recover damages. Petitioner is an African-American female, a member of a protected class, who was deprived of her property rights by illegal acts of conspiracy and fraud, initiated and carried through by respondents.

B. Petitioner's Race-Base Claim is Appropriate

In a pre-trial meeting in the trial judge's chambers, petitioner requested her complaint be

amended to cite the statute authorizing her XIII Amendment claim. Title VIII of the Civil Rights Act 1968, and 42 U.S.C. (1985) (3), the Fair Housing Amendment), enacted to protect parties from clandestine operations similar to those complained of by petitioner in the predatory mortgage lending scheme, would certainly have withstood a statute of limitations argument. As stated before the court, the statute gives broad time discretion. Petitioner raised this issue when the judge began to discuss the issue of timing, but the transcript reading is unclear or "incoherent" at this point.

1. Impropriety, Bias, Racial Animus

The position of the lower court was that petitioner was "out in left field" and that it did her no credit to raise the issue of race". The racially and personally offensive remarks made by the district court judge were glossed over by the circuit court; the judge's impropriety attributed as merely "slang" in reaction to petitioner's "incoherent remarks". (making reference to the intentional incoherency indicated in the transcript) The spirit, of what was said and what transpired in trial court, was improper, and the judge was not qualified to deal with the claim.

The regular court attendant, an African American woman was removed from the trial during the 2 day hearing. She had been posted initially, and had escorted the parties into the judge's chambers for the pre-trial conference and had given general instructions on the process. Her name still appeared on the record as if she had been present.

a. "You People" Statement Indicated Bias

The incoherency in the court transcript was intentional. Petitioner did not respond with the gibberish indicated in the record. There were also other important changes made in the transcript. The trial judge, an advanced senior, probably noted for his good sense of humor, made several remarks that indicated bias, impropriety and possible racial animus. The court's summation to petitioner of "You people" always want to blame your problems on society." and then what the circuit court discussed were two different comments. The lower court's reasoning that the court was "not the forum to complain" put the matter to a grinding halt after petitioner's diligent and relentless pursuit of justice.

The wording in the transcript was altered. Petitioner purchased the recording from the court for $26.00, expecting a deviation in the sound record that would support the change in the transcript. Following the detailed directions that came with the record, the program would not open.

b. Mischaracterizations, Presumptions and Stereotyping

From petitioner's experience of the covert inner workings of the predatory scheme, respondents, and those similarly situated, are able to effect their scams by assertions of ignorance and other derogatory mischaracterizations toward their victims.

1. Unintelligible, Incoherent and Ignorant

The incoherency stereotyping promotes the lie that these massive foreclosures are a result of ignorance. Opinions read where plaintiffs, especially in light of their need to proceed as paupers, have

been harshly rebuked as litigious, incoherent, and wasting the court's time. In reading them, I too believed that someone with limited verbal ability was attempting to assert their rights. Now, I understand fully, that this is a ploy, and an abuse of the legal system

2. Abuse of Process

a. Sham Bankruptcy

Under the rule of law as decided by the circuit court, petitioner would have been entitled to at least 29 months of equitable tolling for respondents' active misleading of petitioner during a sham bankruptcy. The circuit court's assertions "Harris filed bankruptcy on March 5, 2004 to forestall foreclosure proceedings", [APP. A, viii] along with the emphasis on "defaults" mentioned throughout the opinion is a mischaracterization of petitioner as financially irresponsible, and a denial of the powerfully effective scheme. The opinion is blatantly couched in terms that favor respondents. Furthermore, the court stated that petitioner had not made payments to respondents since 2003 other than in bankruptcy which is blatantly untrue. [APP, A, viii]

Petitioner had in fact paid exorbitant amounts to respondent during the sham bankruptcy, prior to the realization of her attorney's involvement in the scam, while the matter was supposedly being "investigated". [APP. D, xlv] A review of the bankruptcy report indicated the petitioner had only school loans, utilities, and a car payment. Petitioner lives simply, and had not even taken the "cash-out that respondents tried to push when the refinancing was done.

Petitioner made regular payments to the bankruptcy trustee, under contest, and to Homecomings while the attorney feigned working on matters for petitioner, over $18,000 to Respondents for over a 29 month period. The trustee record showed a perfect and regular schedule of $200.00 monthly, while the monthly payments, the payments required on the statement, were all over the place. Unknown to petitioner, the attorney worked with Homecomings to plan regular "motions to dismiss" even though payments were made, and then developed "stipulation agreements" requiring additional payments, the team under respondents, all the while taking payments and packing their pockets. Meanwhile, the monthly statements listed petitioner's outstanding balance on the loan at increased amounts. A note on the monthly statement read in so many words, "don't be concerned about the amount indicated on the statement if you are in bankruptcy". Moreover, the amount given by respondents as an outstanding balance when petitioner tried to refinance were inaccurate. Respondent didn't even try to hide the miscalculations at this point. (note calculations of 1@ $437.97 to equal $875.94 [APP. D, lvi-lvii] This is the type of math respondents did to misappropriate funds from petitioner throughout the arrangement, which it turns out, was not the bargained for agreement.

Petitioners' attempt to have the bankruptcy judge address the matter was denied. (APP. D, xlii-xliv] September 2006, prior to petitioner filing the writ of summons, the bankruptcy attorney and respondents had agreed through a "stipulation" to

increase my papers to over 1,000 a month for 6 months in addition to the trustee payments. Even though the amount was not beyond petitioner's means, she now had the full understanding of the illegal financial coercion, the predatory scheme, the involuntary servitude into which she had been trapped. And thus began petitioner's diligent pursuit on he claims.

Petitioner at all times described the events accurately. At no time throughout the course of this action did petitioner resort to malicious personal attacks. When the magnitude of the level of unlawfulness and collusion began to unfold, letters of reproof sent to and about the bankruptcy judge in my case, demonstrate the type of respect I maintain for positions of authority [APP. D, xliii-xliv]

b. Tampering With Court Dockets

When petitioner filed a writ of summons in the Court of Common Pleas, she attempted to get a stay from the sheriff sale. A one month stay was granted pending a hearing with Homecomings. The judge was informed that petitioner had obtained evidence of the fraud against her and would like a stay pending the case. The judge heard respondents and interestingly inquired about the location of her law firm. A review of the court docket revealed that respondents' (the sheriff sale group) law firm is regularly before that judge. Either he forgot, or the discourse was perhaps to give the appearance of impartiality. A decision was not made during the hearing. Later, the stay was removed and information docketed on petitioners complaint, a different docket number and matter, effectively

closing her court action. While petitioner was having the matter investigated, respondents removed the action to the district court. [APP. B, xlii, D, xxii, xxxiv, xxxv, xxviii-xxix]

c. Quiet Title Action/Landlord Tenant Action

In another attempt to save her home, petitioner filed a Quiet Title Action for the fraudulent conveyance of home sold at the sheriff sale to investor. Petitioner filed an appeal from Municipal Court judgment on a landlord tenant action against the house. [APP. B, xviii-xxi, xxv, xxvi, xxvii, xxxvii-xxxviii] Petitioner asked the judge to recuse himself due to several improprieties noted. He denied the request. The transcript purchased at a high cost of $271.00 , , was likewise an incoherent read] In the instant case, where the court ratified the court's personal insult, transcript is totally intelligible and therefore the court's remark was merely "slang" Petitioner was not completely shocked by the alterations in the transcript based on the preceding events.

d. Transcript Irregularities

Prior to the transcript changes that petitioner complains of in the instant case, petitioner had observed the problem of incoherency in the transcript purchased in anticipation of appeal from the sham Quiet Title Action. (petitioner references procedures as "sham" due to the fact that the actions are under color of law but the parties are not following the rules and procedures of law and equity)

e. Illegal Sheriff Sale

Petitioner regularly visited the sheriff's office to find out what measures could be taken. A helpful staff member gave leads of other possible agencies to contact, none of which led to any result. The house was sold for 64, 000. Respondent attached more false charges to the sheriff's office accounting form, such as insurance, which was paid by petitioner up to the date of the sale. Petitioner did not receive any of the monies from the sale. [APP.B, xl-xli] At one point, petitioner would visit the sheriff's office several times a week. In a conversation with one of the deputies, petitioner described the ordeal as being tantamount to a rape.

In the course of suffering the horrendous experiences operating under cover of law, petitioner has been given a whole new perspective on many of the cities' social ills-- homelessness, the alcoholism and drug use, crowded shelters, overcrowded jails, the violence (including the periodic random shooting deaths, the unexplained shootings where suspects are never identified and a city spiraling out of control. The evidence does not reveal the conversations with people similarly situated although petitioner gave an overview to the jury.

Despite the horrendous pressure, the sham bankruptcy, damaged credit, the incredible amount of money and time spent on legal research, writing, and court visits (while simultaneously parenting and employed full time), the repeated insults, illegible court transcripts, and volumes of paper, petitioner emerged with an insightful personal experience and a knowledge of the level of shame to which some of our leaders have sunk. I would venture to say that most people have not been so fortunate. The

repercussions of these great injustices are being felt throughout the nation

In the instant case, false charges were continuously imposed, and no one was watching. Petitioner was employed at all times and financially able to pay the illegal increases, but would not continue to do so as a participant in an involuntary servitude to respondents, who controlled the situation so there was apparently no way out.

Petitioner is neither "paranoid", hallucinatory"," desperate", guilty of "racial hectoring", "didn't make mortgage a priority", "mean-spirited" , "absurd" "nonsensical" "incoherent", nor an advocate of the "conspiracy theory" or any similar ideology. Nevertheless, even as petitioner, one may be conscientious, possess clarity, discipline, documents of proof, credible testimony, and a day a court, the court turned a deaf ear, and a blind eye to the reality of the fraud and illegal foreclosure, and dismissed the jury by a procedural whim.

Although petitioner loved her home and had spent considerable time, energy, and pride personally sanding the floors and other measures to beautify her home, Petitioner could have cried, paid the money and held on to her house until the next illegal charge and the next. However, to be released from the unethical financial coercion a "release of the sticks and bricks" enabled Petitioner to maintain the tenacity and fortitude to fight to the end against the unlawful and moreover, ungodly acts against her. Petitioner told her daughter, who was 14 years old at the time, I'm going to make some moves that may cause us to lose our house. Her response, "that's

okay mom, we can always get another house'.

Petitioner diligently sought assistance from the legal community, local, state and federal agencies for help to resolve the fraud and to keep her home. [APP. D, xxx, xxxvii, xxxviii, xlvii, xlix, APP. B, vi, vii, xi, xiv, xvi] In most cases, she was directed to the courts. This list is not exhaustive. Petitioner was on an educational sabbatical during the period of 2006-2007. This enabled her to have a combination of time, energy and money to pursue her claim with such diligence. The normal course of events involves a daily schedule that is overloaded with professional and family demands. In schemes of predatory lending, particularly for those who don't have the wealth nor resources to handle this invidiously violent attack, "No forum" (reference made to district court judge's comment in conjunction with another statement describing her as "out in left field") seems to be the sentiment of the day. The court is expected to function as a forum where justice, not social position, nor wealth, dictate the outcome of the claim. Unfortunately, justice has not been served in the instant case. Petitioner respectfully requests that the Supreme Court exercise its supervisory power and be that needed forum.

CONCLUSION

A decision by the Supreme Court which addresses a clear standard for a jury question in claims against predatory lenders is both timely, and an issue of national importance. Where there has been a corrosion of ethics and values in society, the individuals who enforce laws cannot be left to their

own devices. Clearly, there should be no ambivalence, nor ambiguities, in such an important area in which one's individual liberties, and pursuit of happiness is under constant attack. Constitutional principles have withstood the test of time toward the betterment of our nation, and should continue to be relied upon for the continuance of democratic ideals and equal justice for all.

Fairness and impartiality such as that afforded by jury review is critical in predatory lending actions where there is unequal bargaining power. Mortgage lenders, who in times past were respected in their fiduciary capacity, have now manifested in an aggressive way that they are not entitled to the level of trust, and should not be allowed to hide behind the law.

The court's deference to mortgage lenders, and in some cases, its inaction, and indifference, has contributed to the current mortgage crisis and epidemic of predatory lending against citizens. Hence, respondents have been allowed unlawful gain from their abuse of the legal process in their respectable capacity as fiduciaries.

In Pennsylvania, the foreclosure rate is indicative of the success gained by mortgage lenders as the courts maintain a hands-off approach. The current methods being employed routinely to illegally deprive citizens of their homes is reminiscent of the dark times; a step back in time. The Court should not allow this new-age slavery to continue to thrive but must permit the Constitution to flourish as the authority under which all citizens may have life, liberty, and, property, and equal protection of the laws. *U.S C., Amendment X* IV

Petitioner asks the Court to reverse the decision of the circuit court and issue a writ of error for a new trial. Just as criminals and vigilantes cannot be allowed to wreak havoc and chaos, similarly, those acting under color of law, should not be a law unto themselves.

We pray that the Court gives light and enlightenment to this timely and critical matter such that confusion will no longer be the prevailing voice. "Have respect unto the covenant: for the dark places of the earth are full of the habitations of cruelty". *(Psalm 74:20)*

As the Supreme Court articulated in *Galloway*, the voice of the Court must give a clarion call. This call is necessary to discourage systems, individuals, and entities, who give support to abusive and unfair mortgage lending practices designed to ensnare citizens; such practices which are the subject matter of this petition. Provide guidance for the effective administration of justice.

Petitioner prays for a writ of certiorari to review the judgment below and for the Court to exercise its supervisory powers.

The petition for a writ of certiorari should be granted.

Respectfully submitted,

/s/ **Patrice Harris**
Patrice M. Harris, BA, MLS, JD

Date: August 20, 2010

Appendix A

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PS5-104

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

No. 09-3518

PATRICE HARRIS,
Appellant,

v.

HOMECOMINGS FINANCIAL SERVICES, INC./
BANK ONE;
NOVASTAR MORTGAGE, INC.;
EXPRESS FINANCIAL SERVICES, INC

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civ. No. 07-cv-00622)
District Judge: John P. Fullam

Submitted Pursuant to Third Circuit LAR 34.1(a)
April 22, 2010

Before: SMITH, FISHER, and GARTH, Circuit Judges

JUDGMENT

This cause came to be considered on the record from the United States District Court for the Eastern District of Pennsylvania and was submitted to pursuant to Third Circuit LAR 34.1(a) on April 22, 2010. On consideration whereof, it is now hereby

ORDERED and ADJUDGED by this Court that the judgment of the District Court entered on July 24, 2009, be and the same is, hereby affirmed.

All of the above in accordance with the Opinion of the Court. Costs are taxed in favor of the Appellees.

ATTEST:

/s/Marcia M. Waldron
Clerk

Dated: April 26, 2010

PS5-104 **NOT PRECEDENTIAL**

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Before: SMITH, FISHER, and GARTH, Circuit Judges.

(Filed: April 26, 2010)

OPINION

PER CURIAM

Appellant Patrice Harris filed suit in the Philadelphia County Court of Common Pleas against Express Financial Services, NovaStar Mortgage, and Homecomings Financial Services, and her civil action was removed by one of the defendants to United States District Court for the Eastern District of Pennsylvania pursuant to 28 U.S.C § 1332(a) and § 1441(a). Harris alleged in her Complaint that she purchased the property located at 6114 North 8th Street in Philadelphia for $50,000 in December of 1998, with an adjustable mortgage rate of 11.25%. Harris, a school children's librarian with a law degree, made all payment in accordance with the loan. In September of 2000, Harris decided to refinance her mortgage. Unrepresented and without an agent of her own, Harris agreed with one Mark L. Witmer of Express Financial Services to refinance at a rate of 9.875%. NovaStar is the lender that refinanced Harris' mortgage in September of 2000 and Express Financial

Services was the company that conducted the closing. The $44,000 loan, which was secured by a mortgage on the property, was sold almost immediately to Homecomings, which began servicing the loan in November of 2000.

Harris alleged in her Complaint that she agreed only to a fixed rate of 9.875% and she stated that she did not learn that she had an adjustable rate until she read a Homecomings statement dated September 20,2002, the two-year anniversary of the loan. She began investigating the circumstances of her loan at that time and she alleged that she learned that her name and initials were forged on certain of the loan documents. In her Complaint, Harris asserted claims against NovaStar and Homecomings for violating the federal Truth in Lending Act ("TILA") (COUNT I), and the Pennsylvania Unfair Trade Practices and Consumer Protection Law ("UTPCCPL")(COUNT II). She also claimed fraudulent inducement (Count III), fraudulent misrepresentation (Count IV), unjust enrichment (Count V), a violation of the Thirteenth Amendment (Count VI), and abuse of process (Count VII). Harris complained that Express Financial and NovaStar engaged in predatory lending practices by agreeing to refinance her mortgage at a fixed rate of 9.875%, and by altering the loan documents to reflect an adjustable rate loan. She alleged that Homecomings interfered with her tax payment arrangement with the City of Philadelphia, charged her unexplained charges and fees, and failed to account for her payments properly. After an arbitration resulted in a ruling for the defendants, Harris sought a trial *de novo*.

A two-day jury trial was conducted on June 8 and 9, 2009. Harris testified and introduced certain

documents into evidence, and she was cross-examined about those documents and the defendant's exhibits. At the close of Harris's case, both Homecomings and NovaStar moved for judgment as a matter of law. In support of this motion, they argued that all of Harris's claims other than the UTPCPL claim were time-barred, that alternatively her unjust enrichment claim would not lie because the relationships were contractural, and the UTPCPL claim failed because Harris could not prove causation in light of the fact that the interest rate never adjusted above the rate she claimed she was promised, and was not the reason she defaulted on the loan.

The District Court directed a verdict in favor of the defendants pursuant to Federal Rule of Civil Procedure 50. The court reasoned that almost all of the claims were barred by the statute of limitations, Harris did not establish causation, every document of record established that this was an adjustable rate mortgage, and Harris's forgery allegations had no evidentiary support. Harris filed a motion for a new trial, which was denied by the District Court in an order entered on July 24,2009, the same day the court entered judgment in favor of the defendants. The claims were against Express Financial, which is in bankruptcy, were dismissed without prejudice.

Harris appeals. She contends in her pro se brief that the District Court's dismissal of the jury under Rule 50 denied her constitutional right to a trial by jury, the court wrongfully granted the Rule 50 motion, her unjust enrichment claim was not time-barred, and her UTPCPL claim should not have been dismissed because she proved causation. See Appellant's Brief, at 13-19.

Harris also alleged that the District Court exhibited

bias and impropriety in the court's statements to her about her case. See Appellant's Brief, at 25-29

We will affirm. We have jurisdiction under 28 U.S.C. § 1291. We turn first to the propriety of the District Court's directed verdict pursuant to Rule 50 in favor of the defendants. Our review of the District Court's Rule 50 directed verdict is plenary. See Gay v. Petsock, 917 F.2d 768, 771 (3d Cir. 1990). Rule 50 of the Federal Rules of Civil Procedure permits a directed verdict when "a party has been fully heard on an issue and there is no legally sufficient evidentiary basis for a reasonable jury to find for that party on that issue." Fed .R. Civ. Pro. 50(a). The rule requires a court to "review all the evidence in the record ... [and in] doing so, draw all reasonable inferences in favor of the nonmoving party ... [without] mak[ing] credibility determinations or weigh[ing] the evidence." Reeves v. Sanderson Plumbing Products, Inc., 530 U.S 133, 149-50 (2000). Rule 50(a) does not violate the right to a jury trial under the Seventh Amendment. Galloway v. United States, 319 U.S. 372, 389-96 (1943).

The UTPCCPL was designed to prevent fraud; common law elements of justifiable reliance and causation must be satisfied. See Tran v. Metropolitan Life Ins. Co., 408 F.3d 130, 139-41 (3d Cir.2005). The evidence established that, on June 10, 2002, Homecomings notified Harris that she was in default because she was two months in arrears. Supp. App. 258-263. At that point in time the interest rate on her loan had yet to adjust and was still 9.875%. In a statement dated September 20, 2002, Homecomings notified Harris that her interest rate was going to adjust in October of 2002 to the lower rate of 8.125%. Supp. App. 198. Harris claimed that it was only then that she realized she had an adjustable rate mortgage.

In January of 2003, Homecomings again notified Harris that she was in default. Supp. App. 264-69. In April of 2003, the interest rate adjusted again, this time to 9.125%. Supp. App. 203. The last payment Harris made on her mortgage (other than payments made in bankruptcy) was in September of 2003. Supp. App. 208. In October of 2003, the interest rate adjusted back to the original rate of 9.875%. Supp. App. 209. Harris filed for bankruptcy on March 5, 2004 to forestall foreclosure proceedings.[1] Thus, as of April of 2004, by which time Harris had long been in default under the loan, the interest rate was not higher, nor had it ever been higher, than the original, agreed-upon rate of 9.875%. Indeed, for much of that time it had actually been lower. Whatever caused Harris to default on her loan, it was not the adjustable rate feature of her mortgage. See Tran, 408 F.3d at 139-41 (UTPCCPL requires proof of causation).

In addition, the loan note and mortgage, the originals of which were introduced as evidence at trial, established that the loan had an adjustable interest rate feature that would activate in accordance with the formula contained in the note after a two-year period during which the rate would be fixed at 9.875%. Harris testified that Witmer promised her a fixed rate of 9.875%, but the loan documents properly disclosed the terms of the loan and the adjustable nature of the interest rate. Harris did not introduce any documents containing fixed rate terms, and she signed a number of closing documents identifying her mortgage loan as an adjustable rate loan, including an Adjustable Rate Note. She offered no independent evidence that

[1] The Chapter 13 case was dismissed at Harris's request on September 22, 2006, when she decided to pursue this civil action instead. Her home subsequently was sold in foreclosure.6

NovaStar altered any of the loan documents, or forged her signature, and she did not credibly explain how her original signature appeared on the adjustable rate loan documents without any evidence of tampering. The evidence was not sufficient for a jury to reasonably find that Harris's signature on the loan documents was forged, or that the loan documents had been altered. With respect to her specific claims against Homecomings, although Harris showed the jury the Homecomings statements with the alleged improper fees and charges, she did not submit any evidence to show that the fees or charges she objected to were fabricated or otherwise unlawful. She did not prove that her payments were not properly applied, or that she was billed multiple times for the same monthly payment. In short, the evidentiary record created by Harris was insufficient to prove that any of her specific claims against Homecomings had merit.

Moreover, each claim advanced by Harris apart from her UTPCPL and unjust enrichment claims plainly was barred by the applicable statue of limitation even if the "discovery rule" applied to her case. In order to equitably toll a statue of limitations, a plaintiff must establish, in pertinent part, that the defendant actively misled her about her claims. See Santos ex rel. Beato v. United States, 559 F.3d 189, 197 (3d Circ. 2009). Moreover, she must demonstrate that she diligently pursued her claims. See McAleese v. Brennan, 483 F. 3d 206, 219 (3d Cir. 2007). Given the number of loan documents Harris executed on September 25, 2000 evidencing the presence of an adjustable rate feature, we doubt that she has demonstrated that she is entitled to tolling for the two years between her loan closing and her alleged discovery of the adjustable rate in September or early

October of 2002.

But even if the discovery rule applied, all but two of her claims accrued when she received and read the Homecomings statement dated September 20, 2002 and admittedly discovered that she had an adjustable rate. Harris initiated her civil action in the Court of Common Pleas by filing a Praecipe for Writ of Summons on or after September 22, 2006. The federal Truth in Lending Act has a one-year limitation period under 15 U.S.C § 1640(e). Pennsylvania has a two-year limitation period for fraud (and conspiracy to commit fraud) claims under 42 Pa. Cons. Stat. Ann. § 5524(1), and a two-year limitation period would also apply to a constitutional personal injury claim, see id. at 5524 (2); Wilson v. Garcia, 471 U.S. 261 (1985) (state statute of limitations applies to actions under 42 U.S.C. § 1983). As such, no reasonable jury could have returned a verdict for Harris on five of her counts, and the District Court thus properly directed a verdict in favor of the defendants on these counts. As such, no reasonable jury could have returned a verdict for Harris on five of her seven counts, and the District Court thus properly directed a verdict in favor of the defendants on these counts.

If the discovery rule applied, Harris's unjust enrichment claim might well be timely, 42 Pa. Cons. Stat. Ann. § 5525(4) (providing for four-year limitation period), but a directed verdict was nonetheless proper on this count as well because " the quasi-contractual doctrine of unjust enrichment [is] inapplicable when the relationship between parties is founded on a written agreement or express contract." Benefit Trust Life Ins. Co. v. Union Nat. Bank of Pittsburgh, 776 F.2d 1174 (3d Cir. 1985) (quoting Schott v. Westinghouse Electric Corp., 259 A. 2d 443, 448 (Pa

1969)). At trial, the defendants and Harris each introduced a number of contract documents, including the Adjustable Rate Note and Mortgage, which plainly established that the relationship was contractual.

In her motion for a new trial, Harris claimed that the District Court had no basis for granting the Rule 50(a) directed verdict and she repeated the arguments she had made at trial. She further alleged that the court conferred with the defendants outside of her hearing about the Rule 50 motion and made a racially biased mark. For the reasons already stated, the directed verdict was proper and Harris was not entitled to a new trial on that issue. With respect to her contentions of bias and impropriety, which she has elaborated upon in her pro se brief, we have read the trial transcript and find no support in it for these contentions. Notwithstanding Harris's lack of familiarity with trial court practice and procedure, the District Court gave her great latitude in presenting her case, see, e.g., N.T., 6/8/09, at 73,75,99, and made every effort to understand her allegations. Furthermore, the statement she claims proves racial bias can be found nowhere in the transcript of the trial, and in fact, the District Court recognized that "many African American people are treated improperly in our society still," N.T., 6/9/09, at 56. As to the District Court's use of an idiom in directing a verdict in favor of the defendants, N.T., 6/9/09, at 56, we note that the comment followed directly after Harris made an incoherent argument summarizing her essential allegations, see id. We conclude that the District Court's comment does not, on the record as a whole, establish bias. Cf. Likitey v. United States, 510 U.S 540, 550-51 (1994) (judge is not reusable for bias or prejudice where his knowledge and negative opinion were acquired during the course of

proceedings and upon completion of the evidence).[2]

For the foregoing reasons we will affirm the judgment of the District Court directing a verdict in favor of NovaStar Mortgage and Homecomings Financial and order denying Harris's motion for a new trial. The appellees' unopposed motion to file a timely supplemental appendix is granted.

[2] According to the *Random House Historical Dictionary of American Slang* 417 (1997), the phrase "out [or off] in left field" means "eccentric, "absurd, "nonsensical", "unreasonable," "entirely wrong," or "far from the mark."

Patrice Harris v. Homecomings Fin Ser Inc/Bank O, et al

2-07-cv-00622

O R D E R

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

09-3518

The Court has received the Apellee's Brief on behalf of **Homecomings Fin Ser Inc Bank One**.

The brief does not comply with the following Court requirements:

Contents of Brief See FRAP 28- The following is/are missing:

Certification that electronic version is identical to the paper copies.

Certification that a virus detection program was run and no viruses were detected

Certificate of Bar Membership

Action Require Regarding Brief:

In order to cure errors with respect to CONTENT, **Homecomings Fin Ser Inc Bank One** must file an addendum containing the missing sections of the brief listed above in electronic format.

Counsel or the party(ies) must correct the above listed deficiencies by 02/19/2010. No action will be taken on the document until the error(s) has (have) been corrected.

Pursuant to 3rd Cir. LAR Misc. 107.3 and 3rd Cir. LAR Misc. 113, if a party fails to comply with the electronic filing requirements, despite notice by the Clerk, the Court may impose sanctions. Such sanctions include, but are not limited to,

imposition of costs, disciplinary sanctions, and dismissal of the case.

For the Court,

/s/ Marcia M. Waldron

Marcia M. Waldron, Clerk

Dated: February 16, 2010

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

09-3518

Patrice Harris v. Homecomings Fin Ser Inc/Bank O, et al

2-07-cv-00622

O R D E R

The Court has received the Appellee's Supplemental Appendix on behalf of **Homecomings Fin Ser Inc Bank One**.

The Joint Appendix does not comply with the following Court requirements:

Form of Appendix- The Following aspect(s) of the appendix is/are/ noncompliant:

Supplemental appendix filed without a motion for leave to file as such

In order to cure errors with respect to FORM, **Homecomings Fin Ser Inc Bank One** must file a motion for leave to file Supplemental Appendix.

Counsel or the party(ies) must correct the above listed deficiencies by 02/23/2010. No action will be taken on the document until the error(s) has (have) been corrected.

Pursuant to 3rd Cir. LAR Misc. 107.3 and 3rd Cir. LAR Misc. 113, if a party fails to comply with the electronic filing requirements, despite notice by the Clerk, the Court may impose sanctions. Such sanctions include, but are not limited to, imposition of costs, disciplinary sanctions, and

dismissal of the case.
For the Court,
/s/ Marcia M. Waldron
Marcia M. Waldron, Clerk
Dated: February 18, 2010
cc: Patrice Harris,
Peter J. Leyh, Esq.
Brett L. Messinger, Esq
Joseph F. Riga, Esq.
For questions please contact Ebony at 267-2999-4917.

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

09-3518

Patrice Harris v. Homecomings Fin Ser Inc/ Bank O, et al

2-07-cv-00622

BRIEFING AND SCHEDULING ORDER

Effective December 15, 2008, the Court implemented the Electronic Case Files System. Accordingly, attorneys are required to file all documents electronically. See 3d Cir. L.A.R. 113 (2008) and the Court's CM/ECF website at www.ca3.uscourts.gov/ecfwebsite.

It is **ORDERED** that the brief for Appellant(s) and the joint appendix shall be filed and served on or before **10/14/2009**.

It is **FURTHER ORDERED** that the brief(s) for

Appellee(s) shall be filed and served within thirty (30) days of service of Appellant's (Appellants') brief.

It is **FURTHERED ORDERED** that a reply brief, if any, shall be filed and served within fourteen (14) days of service of Appellee's (Appellees') brief(s).

It is **FURTHER ORDERED** that if Appelle fails to file a brief within the time directed, the matter will be listed on Appellant's brief only and Appelle may be subject to such sanctions as the Court deems appropriate.

It is noted that, where applicable, parties must comply with 3rd Cir. LAR 31.2 which provides: A local, state or federal entity or agency, which was served in the district court and which is the appellee, must file a brief in all cases in which a briefing schedule is issued unless the court has granted a motion seeking permission to be excused from filing a brief. The rule does not apply to entities or agencies that are respondents to a petition for review unless the entity or agency is the sole respondent or to entities or agencies which acted solely as an adjudicatory tribunal.

This Court requires the filing of briefs by counsel in both electronic and paper format. 3rd Cir. LAR 31 .1(b). Pro Se litigants are exempt from the electronic filing requirement. Pursuant to 3rd Cir. LAR 30.1(a), counsel must electronically file the appendix in accordance with LAR Misc. 113.

Checklists regarding the requirements for filing a brief and appendix are available on the Court's website at www.ca3.uscourts.gov.

For the Court,
/s/ Marcia M. Waldron
Marcia M. Waldron, Clerk

cc: Ms. Patrice Harris
Peter J. Leyh, Esq.
Brett L. Messinger, Esq.
Joseph F. Riga, Esq.

Dated: September 4, 2009

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PATRICE HARRIS

v.

HOMECOMINGS FINANCIAL SERVICES INC./BANK ONE, NOVASTAR MORTGAGE, INC. and EXPRESS FINANCIAL SERVICES, INC.
CIVIL ACTION

NO. 07-cv-0622-JF

ORDER

AND NOW, this day of July 2009,

IT IS ORDERED that Plaintiff's motion for a new trial or, in the alternative, to alter the judgment, is DENIED.

IT IS FURTHER ORDERED that, pursuant to 11 U.S.C. § 362, proceedings against Defendant Express Financial Services having been stayed since November 2007, Plaintiff's claims against Defendant Express Financial Services are DISMISSIED WITHOUT PREDJUDICE. Plaintiff may reassert those claims at a later date, if it becomes possible to do so.

The Clerk is directed to mark the case-file CLOSED.

BY THE COURT
/s/ John P. Fullam
John P. Fullam, Sr. J

ALD-061 **December 3, 2009**

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

C.A. No. 09-3518

PATRICE HARRIS

v.

HOMECOMINGS FINANCIAL SERVICES, INC./BANK ONE, ET AL.

(E.D. PA. CIV. NO. 07-CV-00622)

Present: SLOVITER, AMBRO, and SMITH, Circuit Judges

Submitted are:

(1) Appellee Novastar Mortgage, Inc.'s motion to dismiss the appeal under Third Cir. LAR 11.0; and

(2) Appellant's ""Statement of Facts and Issues, etc."

in the above-captioned case.

Respectfully,

MMW/LLB/clw Clerk

ORDER

The foregoing appelle Novastar Mortgage, Inc.'s motion to dismiss the appeal under Third Cir. LAR 11.0 is denied. The Official Transcripts from the trial on June 8 and 9, 2009 have been prepared and filed, see Docket Entry Nos. 58,60, and are available through PACER and accessible to the parties. If the appellees include the transcripts in a supplemental appendix, copying costs are available if they prevail on appeal under Third Cir. LAR 39.3

By the Court

/s/ Dolores K. Sloviter
Circuit Judge

Dated: December 10, 2009
CLW/cc: Ms. Patrice Harris
Joseph F. Riga, Esq.
Peter J. Leyh, Esq.

Appendix B

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

Patrice Harris

CIVIL ACTION
NO. 07-622
FILED
OCT 19 2007
MICHAEL E. KUNZ, Clerk
By /s/ ti [sic] Dep. Clerk

v.

Homecomings Financial Services, Inc./Bank One, Novastar Mortgage, Inc., and Express Financial Services, Inc.

Novastar Mortgage, Inc., *Cross Claimant*

v.

Homecomings Financial Services, Inc./Bank One and Express Financial Services, Inc., *Cross Defendants*

ARBITRATION AWARD
PURSUANT TO LOCAL RULE 53.2

AND NOW this 18th day of Oct, 2007, we the undersigned arbitrators having been duly certified and sworn and having heard the above captioned civil action on Oct. 18, 2007, do hereby make the following award pursuant to Local Civil Rule 53.2:

We find in favor of all defendants against plaintiff.
We find in favor of Homecomings Financial Services, Inc./Bank One and Express Financial Services, Inc. on Novastar Mortgage, Inc.'s cross claim.

/s/ Linda Moy
Chairman

/s/ Doris J. Dabrowski
Arbitrator

/s/ Susan Freedman
Arbitrator

NOTICE

This award will become a final judgment of the court without the right of appeal, unless a party files with the court a demand for a trial *de novo* within thirty days after the entry of the arbitration award.
ARB14

First Judicial District of Pennsylvania
COURT OF COMMON PLEAS
OFFICE OF THE PRESIDENT JUDGE

C. DARNELL JONES II
President Judge
19107

Room 366 City Hall
Philadelphia, PA

(215) 686-8334
Fax: (215) 567-7328
E-Mail: darnell.jones @ courts.phila.gov

February 4, 2008

Patrice M. Harris
6114 North 8th Street
Philadelphia, PA 19120

RE: Disposition of Mortgage/Real Estate Matter

Dear Ms. Harris,

I am in receipt of your correspondence regarding the above-referenced matter. I wish to thank you for bringing your concerns to my attention and invite you to schedule an appointment so that we can discuss the matter further. If this is amenable to you, please contact my secretary, Ms. Julia Senior, at the number above to make arrangements.

Again, thank you.

Very truly yours,
/s/ C. Darnell Jones
C. Darnell Jones II

President Judge

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Patrice Harris

: CIVIL ACTION

v. :

: NO.07-622

Homecomings Financial Services, Inc.
Bank One, et al

FILED OCT 22 2007

ORDER SUBSTITUTING AN ARBITRATOR

AND NOW, this 22nd day of October, 2007, it is hereby

ORDERED that Wallace Walker, Esq. is replaced as an arbitrator on Thursday, October 18, 2007, 9:30 a.m. It is hereby

FURTHERED ORDERED that Linda Moy, Esq. is appointed to serve as arbitrator in the above-captioned civil action at the time and date previously set forth.

BY THE COURT
/s/ John P. Fullam
JOHN P. FULLAM, J.

ENTERED
OCT 22 2007
CLERK OF COURT

ARB8 (12/82)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Patrice Harris

: CIVIL ACTION

v. :

: NO.07-622

Homecomings Financial Services, Inc.
Bank One, et al

FILED OCT 22 2007

ORDER SUBSTITUTING AN ARBITRATOR

AND NOW, this 22nd day of October, 2007, it is hereby

ORDERED that Philip Lebowitz, Esq. is replaced as an arbitrator on Thursday, October 18, 2007, 9:30 a.m. It is hereby

FURTHERED ORDERED that Doris Dabrowski, Esq. is appointed to serve as arbitrator in the above-captioned civil action at the time and date previously set forth.

BY THE COURT

/s/ John P. Fullam
JOHN P. FULLAM, J.

ENTERED

OCT 22 2007
CLERK OF COURT

v

ARB8 (12/82)

TOM CORBETT
ATTORNEY GENERAL

COMMONWEALTH OF PENNSYLVANIA
OFFICE OFATTORNEY GENERAL

BUREAU OF CONSUMER PROTECTION
Philadelphia Regional Office
21 South 12th Street, Second Floor
Philadelphia, PA 19107
(215) 560-2414
December 7, 2006

Patrice Harris
6114 N. 8th St.
Philadelphia, PA 19120

Ref: Homecomings Financial / NovaStar, B-011124-2006

Dear Ms. Harris:

Your complaint has been received by the Bureau of Consumer Protection and reviewed by the undersigned.

After examining your case, it appears that this matter is already being litigated in a Court of Law or an arbitration proceeding. This office has reviewed your case for resolution by mediation which requires the voluntary cooperation of both parties, especially the business against which the complaint is filed. Once a case is filed with the Courts, the parties are involved in an adversary proceeding during which there are rules for fact-finding and exchange of information. This process gives both parties the opportunity to present

their version of the story to someone who will listen to both sides, apply the law and issue an objective and binding decision. In many ways, your remedy through the Court can be more direct and may include more relief than this office can provide.

Accordingly, in view of the fact that this case is being litigated in a Court, this office will not attempt to resolve your case through voluntary mediation.

Thank you for this information; we are sorry we could not be of greater assistance to you at this time. If your Court case is withdrawn or suspended without reaching a final decision and you would like for us to pursue this matter through voluntary mediation, please feel free to contact us again.

Very truly yours,
/s/ JP [sic]
Janis Parilla
Agent

bmt
Supervisor
20B

PENNSYLVANIA OFFICE OF ATTORNEY GENERAL CONSUMER COMPLAINT FORM

TOM CORBETT
ATTORNEY GENERAL
www.attorneygeneral.gov

Bureau of Consumer Protection
Administrative Office
14th Floor
Strawberry Square
Harrisburg, PA 17120
(717) 787-9707

YOUR NAME

Patrice Harris

ADDRESS

6114 N. 8th Street

CITY STATE ZIP CODE COUNTY

Your Age 45-59

Phila PA 19120 Phila

HOME PHONE NUMER 2159275116

BEST NUMBER TO CALL DURING THE DAY

2159275116/2679714642

How did you find out about us: X Internet

NAME OF THE BUSINESS COMPLAINT IS AGAINST WHOM YOU COMPLAINED

HOMECOMINGS FINANCIAL/ NOVASTAR

PHONE

Homecomings 18002062901 NOVASTAR- 1 888-299-1231

PRODUCT(S) OR SERVICE(S) PURCHASED DATE OF PURCHASE

Mortgage refinancing loan to obtain fixed rate (no cash, no repairs) 9/25/00

PURCHASED PRICE

Pd 37,500 loan

To what other agencies have you complained?

State Dept; PA Banking; Bankruptcy Court, Records Commissioner; etc.

What action was taken? Pending
Have you retained an attorney? Yes No **X**
If yes, please provide your attorney's name, address, and telephone number Pending
Have you filed a court action? **X** Yes No
If yes, please state WHEN, WHERE, and WHAT decision was made?
Court of Common Pleas- 9/22/06 Pending- new attorney

PLEASE COMPLETE THE REVERSE SIDE OF THE COMPLAINT FORM

Please explain y our complaint. You may use additional sheets if necessary. Please print or type clearly. Try to be brief, but be sure to tell **WHAT** happened, **WHEN** it happened, and **WHERE** it happened. Be specific about any oral statements the business made to you, **ESPECIALLY** those that influenced you to deal with the company. Describe events in the order in which they happened. Attach **COPIES** of all contracts, letters, receipts, canceled checks (front & back), advertisements or any other papers that relate to your complaint.

Please investigate the unfair and deceptive practices of HomeComings Financial and NovaStar. They are proceeding to take my home on a fraudulent loan document. Sheriff sale scheduled for Jan 2007. I have tried to get legal redress since 2003.See attached letter for explanation.

NovaStar/Homecomings used white-out/forgery to redo/recopy the loan documents to reflect an adjustable rate loan. Documents filed in the records department at City Hall are forged copies.

WHAT WOULD YOU LIKE THE BUSINESS TO DO TO SETTLE YOUR COMPLAINT?

1) Provide original loan documents. 2) Allow me to show the documents that were altered/white-out/forged to reflect an adjustable rather than a fixed mortgage rate. 3) Rescind fraudulent loan and refund illegal payments.

PLEASE READ CAREFULLY

The Attorney General cannot act as your private attorney. As a law enforcement agency, the primary function of the Office of Attorney General is to represent the public at large by enforcing laws prohibiting fraudulent or deceptive trade practices.

The information you provide will be used in an attempt to resolve your complaint and will be shared with the party complained against.

Through the Bureau of Consumer Protection, the Attorney General does provide as a service to consumers the Consumer Mediation Unit, where an attempt may be made to mediate individual consumer complaints. Your complaint will remain on file with our office and the information contained in it maybe used to establish violations of Pennsylvania Law.

I certify that the information provided is true and correct to the best of my knowledge, information and belief.

/s/ Patrice M Harris 11/23/06

Your Signature **Date**

REVISED JANUARY 2005

EXHIBIT 3/C

UNITED STATES OF AMERICA
FEDERAL TRADE COMMISSION
WASHINGTON, D.C 20580

Consumer Response Center

December 20, 2006

Patrice Harris
6114 North 8th St
Philadelphia, PA 19120

Re: FTC Ref. No. 9570616

Dear Patrice Harris:

Thank you for your letter regarding your experiences with your financing. I can assure you that the Federal Trade Commission is concerned about the practices you describe. Because many of the terms of a particular credit agreement are governed by state rather than federal law, however, a private attorney familiar with state laws probably would be in the best position to give you immediate relief. You, therefore, may wish to contact the local bar association, or the local Legal Aid or Legal Services office, for a referral to an attorney who specializes in this are. In addition, you may wish to contact the state Attorney General's office, or a local consumer protection agency, for assistance.

In addition to any causes of action you may have under state law, the Commission enforces the Truth in Lending Act ("TILA"), 15 U.S.C 1601 et seq., and its implementing Regulation Z. Under the TILA and Regulation Z, creditors are required to provide consumers with written disclosures of the costs and credit terms associated with financing. Among the

required disclosures are the annual percentage rate and the finance charge. Generally, creditors must make these disclosures before the transaction. In addition, special disclosures about variable rate features of the financing are also required. Also, under an amendment to the TILA, creditors making certain high-rate, high-fee mortgages must provide certain additional disclosures and comply with certain prohibitions required by the Home Ownership and Equity Protection Act ("HOEPA"). Also, for certain home equity mortgages and some refinances involving a security interest in your principal dwelling, there may be a right to rescind the mortgage after consummation of the transaction. The TILA has many other provisions, including those pertaining to billing errors and other protections for credit cards. Under some circumstances, the TILA provides a private right of action against creditors for disclosure and other violations. Consumers may file lawsuits for actual damages and/or statutory damages, plus costs and reasonable attorney's fees.

The Commission also enforces the Federal Trade Commission Act ("FTC Act"). 15. U.S.C. 41-58. In interpreting Section 5 of the FTC Act, 15 U.S.C. 45, which prohibits unfair or deceptive acts or practices, the Commission has determined that a representation, omission, or practice is deceptive if (1) it is likely to mislead consumers acting reasonably under the circumstances; and (2) it is material; that is, likely to affect consumers' conduct or decisions with respect to the product at issue, In a statute that became effective in August 1994, Congress amended Section 5 if the FTC Act to provide that an act or practice is unfair if the injury to consumers it causes or is likely to cause

(1)is substantial; (2) is not outweighed by countervailing benefits to consumers or to competition and (3) is not reasonably avoidable by consumers themselves. In determining whether to take enforcement or other action in any particular situation, the Commission may consider a number of factors, including the type of violation alleged; the nature and amount of consumer injury at issue and the number of consumers affected; and the likelihood of preventing future unlawful conduct and securing redress or other relief. While only the Commission can enforce the FTC Act, many states have comparable statutes, some with a private right of action. Private rights of action also may exist for other claims under state law, such as fraud.

Thank you for bringing this matter to our attention. We will contact you in the future if we need additional information, and we hope the information in this letter is helpful.

Sincerely yours,

Consumer Response Center

Pennsylvania
Department of Banking
Market Square Plaza 17 N Second Street, 13th FL
Harrisburg, PA 17101
Ph 7177871854 fx 717.787.8773
www.banking.state.pa.us

January 5, 2007
Ms. Patrice Harris
6114 N. 8th St
Philadelphia, PA 19120-1325
Dear Ms. Harris:

Thank you for contacting the Pennsylvania Department of Banking ("Department") regarding your complaint against HomeComings Financial, LLC, ("HomeComings").

In your initial correspondence to the Department, you stated HomeComings had intentionally hampered your efforts to resolve your delinquency, failed to properly post payments to your account, failed to properly report your delinquency to the credit reporting bureaus and has not provided documents you had requested.

In researching this matter, I forwarded a copy of your correspondence to HomeComings and asked the company to respond. On December 29, 2006, I received a response from Ms. Marci Quisenberry, Executive Correspondent for the company. In her response, Ms. Quisenberry writes that she has reviewed your complaint and the company's records. She states that your loan originated with NovaStar Mortgage

("NovaStar") in 2000. She indicates that NovaStar should have provided an official copy of the loan documents to you at closing. If it did not, you would have to contact your closing agent as HomeComings is unable to provide the documents to you. The loan documents provided to HomeComings when the loan transferred from NovaStar indicate that you agreed to an adjustable rate mortgage loan. Copies of the signed note, mortgage and HUD-1 statement are enclosed with this response. HomeComings is unable to support your contention of fraudulent loan documents as no supporting documentation has been received by the company from you on this issue. Ms. Quisenberry states that you did file bankruptcy on March 5, 2004, and the records show that you did not make the required payments on the bankruptcy plan. A stipulation was made on this repayment plan, but prior to its taking effect, the court dismissed the bankruptcy on September 22, 2006. On September 29, 2006, Ms. Quisenberry states you filed a motion in court for a reconsideration of your bankruptcy dismissal, but were denied by the court. Upon verification of the dismissal, HomeComings resumed foreclosure proceedings against you for non-payment of your debt. Ms. Quisenberry states that your account is due for the December 2005 monthly payment and a sheriff's sale is scheduled for January 9, 2007. Ms. Quisenberry suggests that you can discuss alternatives to foreclosure by contacting the company at the provided phone number and filling out the attached financial package and returning it to her attention as soon as possible or no later than January 3, 3007. This will allow the company time to review your current financial situation and determine any available options before the scheduled sale date. Ms. Quisenberry [only page 1 available]

COMMONWEALTH OF PENNSYLVANIA
DEPARTMENT OF STATE
BUREAU OF ENFORCEMENT AND
INVESTIGATION
PROFESSIONAL COMPLAINCE OFFICE
2601 North Third Street, P.O BOX 2649
Harrisburg, PA 17105-2649

PROFFESSIONAL COMPLIANCE OFFICE
(OUTSIDE PA): (717)783- 48 [sic]
(PA ONLY): 1-800-822-2 [sic]

Date: October 5, 2006
Re: Mark L. Witmer

Patrice M. Harris
6114 N 8th Street
Philadelphia PA 19120

Dear Ms. Harris:

Please be advised that we have received your complaint regarding Mark L. Witmer. Since his Notary commission expired on October 07, 2002, and since the Secretary of the Commonwealth's disciplinary authority is limited to existing notary commissions, we cannot take action on this matter.

We regret we are unable to assist you with your complaint.

Sincerely,
/s/ Mary Sue Ferster

Mary Sue Ferster
Administrative Assistant

MSF/msf

PHILADELPHIA MUNICIPAL COURT
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
34 South 11th Street, Philadelphia, PA 19107

Louis J. Presenza, President Judge
Patricia R. McDermott, Deputy Court Administrator

#LT-07-03-06-3928

GENNADIY BABICHENKO
625 FAIRHILL AVE.
LANGHORNE, PA 19047

PATRICE HARRIS
6114 N. 8TH ST.
PHILA, PA 19120

Plaintiff

Defendant(s)

KENNETH L BARITZ 1005
1218 Chestnut St Suite
Philadelphia, PA 19107

Plaintiff/Attorney **Phone**

Attorney # 022616

O R D E R

AND NOW, to with this 4th day of April, 2007, upon consideration of the above captioned complaint, it is herby ordered and decreed that the above captioned case be marked as follows:

TapeID: 10:54AM Position: 11:05AM

Judgment for Plaintiff. Judgment in the amount of $800.00 Rent and/or Utilities, plus $ 0.00 Physical Damages, plus $0.00 Attorney fees, plus $0.00 Other fees, plus $ 62.00 Costs for a Total Amount due of $862.00, plus Interest from n/a. Judgment for possession from 04/04/2007. Possession granted on the basis of non-payment of rent and termination of the term.

BY THE COURT:
Robert S. Blasi (K.M)

J.

PHILADELPHIA MUNICIPAL COURT

Notice of Judgment of Possession

Date:4-4-07

Claim No: LT-07-03-06-3928

Money judgment has been entered against you in the amount of $ 800 **rent, $**_____**physical damages, $**_____**other, for a total amount of $**_____**plus costs $ *62.00* The Court found the monthly rent to be** _____

Judgment for possession has been entered against you effective 4-4-07 based upon:

X Non-payment of rent

X Termination of the term of the lease

Breach of condition of the lease

You may appeal to the Court of Common Please of Philadelphia within ten (10) days from the date of this notice if the Court has determined that your lease is residential. You may appeal to the Court of Common Pleas of Philadelphia within thirty (30) days from the date of the notice if the Court has determined that your lease is nonresidential. You are advised that the filing of the appeal is governed by the Rules of Civil Procedure of the Court of Common Pleas. Strict compliance with those rules is required. Unless you are thoroughly familiar with the appeal rules, it is suggested that you consult an attorney to pursue your appeal.

If no appeal is taken within the applicable period, and you do not vacate the property by the date referred to herein, the Sheriff or Landlord and Tenant Officer has the authority to serve upon you an *Alias Writ* and forcibly evict you.

Any further questions relating to this matter should be referred to the Judgments and Petitions Unit at 686-

7334.

WHAT TO DO IF YOU RECEIVE A LANDLORD-TENANT COMPLAINT THAT YOU HAVE BEEN SUED IN HOUSING COURT

Read the Landlord-Tenant Complaint on the reverse side. You are the defendant. The party is suing you is the plaintiff.

The Complaint will ask that a judgment for money and possession (eviction from the property) be entered against you.

Check the Complaint for the location, date and time of the hearing.

You have a right to attend the hearing and to present your defense to the Court. You as an individual are not required to have an attorney to represent you. You should bring with you to Court all documents to support your case, such as rent books, receipts, cancelled checks, bills, lease, letters, notices, and photos.

If you do not appear at the hearing, the Court can decide in favor of the other party. A judgment by default can be entered against you for any money owed and can result in your eviction.

IF YOU HAVE ANY QUESTIONS, CALL OR VISIT THE MUNICIPAL COURT LANDLOR-TENANT OFFICE, ROOM 500, 34 SOUTH 11TH STREET, PHILADELPHIA, PA 19107. MONDAY THROUGH FRIDAY, 9:00 A.M. TO 4:00 P.M., TELEPHONE: 686-7988.

The Municipal Court complies with the Americans With Disabilities Act, which requires that all court services and facilities be accessible to persons with disabilities on an equal basis to those without disabilities. If you have a disability, and require reasonable accommodations to file a claim,

participate in a Municipal Court proceeding, or use any service provided by he Court, please call 686-7986. Requests for reasonable accommodations must be made at least three business days before any hearing, or within three business days after service (delivery) of the notice of hearing, whichever is later.

OFFICE OF THE CLERK
UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT
21400 UNITED STATES COURTHOUSE
601 MARKET STREET
PHILADELPHIA, PA 19106-1790
Website: www.ca3uscourts.gov

Marcia M. Waldron
Clerk

Telephone
215-597-2995

April 8, 2010

Patrice Harris
Peter J. Leyh Esq.
Brett L. Messinger Esq.
Joseph F. Riga Esq.
RE: Patrice Harris v. Homecomings Fin Ser Inc/Bank O, et al
Case Number: 09-3518
District Case Number: 2-07-cv-00[illegible]
Dear Litigant and Counsel:
The Court has directed me to advise counsel that the above-entitled case(s) will be submitted on the briefs **Thursday, April 22, 2010,** pursuant to 3rd Cir. LAR 34.1(a). Since there will be no oral argument, your presence will not be required.
Very truly yours,
/s/ Marcia M. Waldron
Marcia M. Waldron, Clerk
/s/ Carmen M. Hernandez
By: Carmen Hernandez, Calendar Clerk
267-299-4952
MMW/CMH
Pursuant to IOP Chapter 2, you are herby advised that your appeal will be submitted before the following: **SMITH, FISHER and GARTH, Circuit Judges.**

FIRST JUDICIAL DISTRICT OF
PENNSYLVANIA
COURT OF COMMON PLEAS
JUDICIAL CHAMBERS

Paul P. Panepinto
Judge

January 17, 2008
292 City Hall
Philadelphia, PA 19107
(215) 686-7916
FAX: (215) 686-9504

Ms. Patrice Harris, Pro Se
6114 N. 8th Street
Kenneth Baritz, Esquire
Philadelphia, PA 19120 1218
Chestnut Street, Ste, 1005
and Philadelphia,
PA 19107
Ms. Patrice Harris, Pro Se
P.O. Box 24299
Philadelphia, PA 19120

NOTICE OF TRIAL

COURT OF COMMON PLEAS COURT OF COMMON PLEAS
APRIL TERM, 2007, NO. 1533 MAY TERM, 2007, NO. 01335

TO ALL PARTIES IN THE ABOVE ACTIONS:

Notice is hereby given of a Trial Date set by the Court as follows:

Friday, January 25, 2008 at 11:00 a.m. in

Courtroom 675 City Hall, Philadelphia, PA.

This is a formal and final notice sent by the Court advising you to be present and bring with you any and all witnesses and/or evidence to present your case before the Court.

If you have any questions, you may contact my Chambers.

Sincerely,
/s/ Paul P Panepinto
HON. PAUL P. PANEPINTO
PRESIDING JUDGE

First Judicial District of Pennsylvania
Court of Common Pleas of Philadelphia County
Trial Division---Civil

: May Term, 2007

Patrice Harris
Plaintiff : NO. 001335
vs. : CONTROL
NO. 102303

Gennadiy Babichenko
Defendant :

RULE

AND NOW, this 25th day of Oct , 2007, upon consideration of the foregoing Motion/Petition to stay Actions pending Quiet Title Actions,
a Rule is hereby entered upon the Respondent to show cause why the relief requested therein should not be granted.

RULE RETURNABLE on the 30th day of Oct 2007 at 1:30a.m/p.m.**X**, in Courtroom 426, City Hall, Philadelphia PA 19107.

DOCKETED **BY THE COURT**:
/s/ Manfredi
OCT 26 2007 **, J.**
J.KELLEHER

COPIES SENT
PURSUANT TO Pa.R.C.P. 236(b)
OCT 26 2007
FIRST JUDICIAL DISTRICT OFPA
USER I.D: /s/ K

Patrice M. Harris
6114 N. 8th St.
Philadelphia, Pa 19120

COURT OF COMMON PLEAS

CIVIL TRIAL

DIVISION

vs.

Gennadiy Babichenko
2007
625 Fairhill Ave.
Langhorne, Pa 19047

May **TERM**,

No. 1335

ORDER

AND NOW, this 8th day of February, 2008 after a hearing before this court on January 25th, 2008, it is hereby ORDERED and DECREED, that verdict is entered in favor of Defendant, Gennadiy Babichenko, and against Plaintiff, Patrice M. Harris, for failure to present evidence and/or prove her claims herein.

BY THE COURT :
/s/ Panepinto
J.

OPIES SENT
PURSUANT TO Pa.R.C.P. 236(b)

FEB x8 2008

FIRST JUDICIAL DISTRICT OF PA
USER I.D: /s/ PMD[sic]

Gennadiy Babichenko
625 Fairhill Ave.
Langhorne, Pa 19047

COURT OF COMMON PLEAS
CIVIL TRIAL
DIVISION

vs.

Patrice M. Harris
2007
6114 N. 8th St.
Philadelphia, Pa 19120

April **TERM**,

No. 1533

O R D E R

AND NOW, this 8th day of February, 2008 after a hearing before this court on January 25th, 2008, it is herby ORDERED and DECREED, that any and all funds on deposit within the Prothonotary shall be released to Plaintiff, Gennadiy Babichenko, through his Attorney Kenneth L. Baritz Esq. Said funds represent rental escrow deposited by Defendant for Plaintiff pending this hearing.

BY THE COURT :
/s/ Panepinto
J.

COPIES SENT
PURSUANT TO Pa.R.C.P. 236(b)

FEB x8 2008

FIRST JUDICIAL DISTRICT OF PA
USER I.D: /s/ PNP

COURT OF COMMON PLEAS

PATRICE HARRIS
Appellant

PHILADELPHIA
:COUNTY

v.

TRIAL COURT

DOCKET

NO. 0705 01335

GENNADIJ BABICHENKO
Appelle

SUPERIOR COURT

DOCKET

NO. 959 EDA 2008

O R D E R

AND NOW, to wit, this 5th day of MAY, 2008, it is hereby ORDERED and DECREED that pursuant to RULE 1925(b) of the Pennsylvania Rules of Appellate Procedure, Appellant, Patrice Harris, is Ordered to file of record with the Court and serve on this trial judge a Statement of Errors Complained Of On Appeal no later than twenty-one (21) days after entry of the Order on the docket.

It is further ORDERED that any issue not properly included in the statement or untimely filed or served shall be deemed waived.

BY THE COURT
/s/ Panepinto/ J
PAUL J. PANEPINTO, J.

COPIES SENT
PURSUANT to Pa.R.C.P 236(b)
MAY -5 2008
FIRST JUDICIAL DISTRICT OF PA
USER I.D.: /s/PNP

In the Court of Common Pleas of Philadelphia County
First Judicial District Of Pennsylvania
Trial Division-Civil

Patrice M. Harris : SEPTEMBER TERM, 2006
Plaintiff/ Petitioner
: No. 002347

vs. : CONTROL NO. 121180

COPIES SENT

Homecomings Financial Services/ :
DOCKETED
Bank One

PURSUANT TO Pa.R.C.P. 236(b)

JAN 5 2007
FIRST JUDICIAL DISTRICT OF PA
USER I.D:_____

B. KOCH
CIVIL ADMINISTRATION

MOTION FOR ISSUE OF RULE TO SHOW CAUSE

I hereby respectfully pray for issue of the rule to show cause why the relief requested by petitioner should not granted

Rule entered upon respondent to show cause as true. Rule returnable the 11th day January, 2007 in room 232, City Hall Philadelphia, PA 19107 at 10 o'clock am. Petitioner to serve counsel for respondent a copy of the rule and petition forwith by certified mail return receipt. All proceedings to stay meanwhile.

BY THE COURT:
/s/ Divito
Jan. 5, 2007 Divito, J.

By_____ PHILA [sic]
OFFICE
Patrice M. Harris 00 JAN-4 AM
9:00

Date_____

JAN-05-2007 0:36 PHFA APPEALS 717 700 4031 P.01

PENNSYLVANIA HOUSING FINANCE AGENCY
Homeowner's Emergency Mortgage Assistance Loan Program
211 N. Front Street
P.O. Box 15628
Harrisburg, Pennsylvania 17105-5628
(717)780-1869
TTY # For Hearing Impaired (717)780-1869

January 5, 2007

Patrice Harris
6114 N. Eighth Street
Philadelphia, PA 19120

RE: NOTICE OF DECISION OF HEARING EXAMINER

Dear Ms. Harris:

On December 18, 2006 the Pennsylvania Housing Finance Agency issued a Notice of Adverse Action and a denial of your request for a mortgage assistance loan pursuant to the provisions of Act 91 of 1983. On January 2, 2007 the Agency was in receipt of your request for an appeal from its decision and an opportunity for a hearing to contest the Agency's denial of a mortgage assistance loan.

A hearing was held on January 4, 2007 at which time you had an opportunity to discuss your situation before a Hearing Examiner. The Hearing Examiner's decision is as follows:

The Appellant's application for an emergency mortgage assistance loan was initially denied on the following grounds:

1. Applicant is not suffering financial hardship due to circumstances beyond applicant's control based on: Applicant has been employed and has had sufficient income to pay mortgage. (Act 91, Section 404-C(A))
2. Applicant is not suffering financial hardship due to circumstances beyond applicant's control based on: Total mortgage delinquency is not due to circumstances beyond applicant's control: Household income since the time of the delinquency has been sufficient to keep the mortgage current had it been treated as a priority. (Act 91, Section 404-C(A)).

During the course of the appeal hearing, the following facts were established:

Patrice Harris attributes the delinquency to fraud and unfair business practices by Homecomings Financial since the beginning of the mortgage origination process. The homeowner indicates that the lender's infractions include forgery of documents to change a fixed rate mortgage to an adjustable rate mortgage, the misapplication of payments, the manipulation of the escrow fund and the usurpation of the homeowner's payment agreement on real estate taxes with the City of Philadelphia. In September 2006 the homeowner filed a lawsuit

against Homecomings Financial with the court of common please for fraud and unfair business practices.

Homecomings Financial sets the delinquency on the $506 monthly mortgage payment from December 2005 through January 2007. On the other hand, the homeowner sets the delinquency from October 2006 through January 2007.

The application indicates that Patrice Harris has been employed with the Abington School District since 1999.

Federal income tax returns reflect the following income history:

Year	Annual Gross Income	Average Monthly Net Income
2003	$ 48, 642	$ 3, 040
2004	51,495	3,218
2005	54,714	3,420

The homeowner generated year-to-date gross income of $47,916 or average monthly net income of $ 3,737 from January 1, 2006 through October 27, 2006.

In September 2000 the applicant executed a mortgage for consideration of a $44,000 refinancing. The mortgage held by Homecomings Financial stipulates a 30-year term and a $506 monthly payment. The lender indicates that the mortgage is delinquent from December 2005.

The total monthly housing expense of $914 reflects the following:

Subject	Monthly Expenditure
Mortgage Payment	$ 506
Homeowner's insurance	50
Utilities	358

TOTAL	$ 914

The monthly installment debt of $300 reflects a $200 educational loan payment and a $100 personal loan payment.

The monthly living expense of $1, 359 reflect the following:

Subject	**Monthly**
Expenditure	
Groceries	$ 150
Home phone	50
Cell phone	35
Gas/car repairs	60
Bus/parking/tolls	40
Clothing	50
Auto insurance	110
Church	300
Payroll deductions	529
Internet	35
TOTAL	$ 1,359

The total monthly expense of $2,573 reflect the following:

Subject	**Monthly**
Expenditure	
Total monthly housing expense	$ 914
Monthly installment debt	300
Monthly living expenses	1,359
TOTAL	$ 2,573

According to the homeowner's testimony and written statement, the homeowner filed a Chapter 13 bankruptcy petition and made $200 monthly trustee payments from January 2004 through September 2006. The homeowner indicated that she also maintained her monthly mortgage payment of $506 during this time.

The foregoing findings of fact exhibit that the average monthly net effective income as derived from the homeowner's 2003, 2004 and 2005 federal income tax returns and as reflected in the homeowner's earnings from

January 2006 through October 2006 exceeds the total monthly expenses. The homeowner has been employed with sufficient income to maintain the mortgage in a current position. But the $506 monthly mortgage payment is delinquent from December 2005 through January 2007. In view of the record the total mortgage delinquency is not due to circumstances beyond the applicant's control: The applicant is not suffering financial hardship due to circumstances beyond the applicant's control.

Additionally, the mortgage delinquency involves a dispute between the mortgagor and mortgagee. The homeowner has filed a lawsuit against the mortgagee for fraud and unfair trade practices. The homeowner disagrees with the lender's statement of the amount of the delinquency. In view of the record a loan should also be denied on the following grounds. Mortgagor is not suffering financial hardship due to circumstances beyond mortgagor's control: Mortgage delinquency is the result of a dispute between the mortgagor and the mortgagee and is not considered an Emergency Mortgage Assistance situation.

It is hereby ordered that the Pennsylvania Housing Finance Agency, Homeowner's Emergency Mortgage Assistance Program's decision of December 18, 2006 is affirmed and the mortgage assistance loan is denied.

Sincerely,
/s/ Michael Cooper
Michael Cooper
Hearing Examiner

cc:file/lep

Comptroller of the Currency
Administrator of National Banks
December 6, 2006
Patrice Harris
6114 North 8TH Street
Philadelphia PA 19120

Re: **Case# 667718**
COUNTRYWIDE BANK, NATIONAL ASSOCIATION

Dear Ms. Harris:

This letter acknowledges a case has been open in the Customer Assistance Group of the Office of the Comptroller of the Currency (OCC). Please make note of the case number listed above. You should reference this case number when inquiring about the case by phone or include this number on any correspondence you may provide to this office. We will review the information you have provided, contact the bank if necessary for additional information and inform you of our decision. While complaint-processing times vary, the average complaint is usually completed with 60 days. If you believe you will be harmed by this delay, we can only suggest you consult legal counsel to protect your rights. If you have questions, please contact this office at the number below.

Sincerely,
/s/ Customer Assistance Group

Customer Assistance Group, 1201 McKinney Street, Suite 3450, Houston, Texas 77010-9050 Phone: (800) 613-6743, FAX: (713) 336-4301

229-688

SHERIFF SALE

By virtue of a Writ of Decree Will be exposed to

PUBLIC SALE

TUESDAY, JANUARY 9, 2007

at 10 o'clock A.M

First District Plaza

3801 Market Street, 3rd Floor

61st (formerly part 42nd) Wd Prem (6114 N. 8th St. 19120)

1286.15 sq. ft. BRT # 611169900

Improvements: Resident Dwelling

C.P. January Term, 2004 No.001190 $48,540.66 Mark J. Udren, Esq.

To be sold as the property of PATRICE HARRIS

JOHN D. GREEN, Sheriff

Darrell Stewart, Admin. Supervisor of Real Estate

Land Title Building, 100 south Broad Street, 5th Floor (215) 686-3535

NOTICE: A schedule of distribution will be on file in the Office of the Sheriff, 100 S. Broad Street, 5th Floor, Thirty (30) Days after date of sale, and distribution will be made in accordance with that schedule unless exceptions are in writing within ten (10) days thereafter with the Sheriff.

PHILADELPHIA MUNICIPAL COURT
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
34 South 11th Street, Philadelphia, PA. 19107
Louis J. Presenza, President Judge Patricia R. McDermott,
Deputy Court Administrator

LT-07-03-06-3928

General Affidavit for Municipal Court Rule #109

KENNETH L BARITZ

I, _____, depose and say that the facts set forth in this affidavit are true and correct and knowledge that I am subject to penalties of 18 P.S. 4904 relating to Unsworn Falsification to Authorities.

KENNETH L BARITZ

_____

Signature

I affirm that the name of the Defendant _____ is the only one known. I have made a reasonable investigation and this is the only known name.

X An invoice or statement of account is not available because LICENSE WILL BE PRESENTED AT TIME OF HEARING and a statement of the pertinent portions or substance of the writing is attached.

This claim involved repairs and I do not have an estimate to repair or a repair bill and I have stated the reasons for this in the complaint.

A copy of the lease is not available for the reason that The license is not attached.

A copy of the notice to quit is not available for the reason that

The particulars of the notice are as follows:

Date the notice was sent to Tenant _____

Date Tenant was given to move by was _____

How as the notice served on the Tenant
Reason given to the Tenant in the notice (what was the breach of the lease, etc.)
The Municipal Court complies with the Americans with Disabilities Act, which requires that all Court services and facilities be accessible to persons with disabilities on an equal basis to those without disabilities. If you have a disability and require reasonable accommodations to file a claim, participate in Municipal Court proceeding, or use any service provided by the Court, please call 215-686-7986. Requests for reasonable accommodations must be made at least three business days before any hearing, or within three business days after service (delivery) of the Notice of Hearing, whichever is later.

49-08/23/01

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: PATRICE HARRIS : Bankruptcy No. 04-13285

:
:
:

DEBTOR : Chapter 13

ORDER

AND NOW, this 22ND day pf Sept, 2006, upon consideration of the Debtor's Praecipie to Dismiss her Chapter 13 pursuant to 11 U.S.C 1307(b), the above captioned case is hereby dismissed and the clerk shall mark the case closed.

BY THE COURT
/s/ [sic]
THE HONORABLE STEPHEN RASLAVICH

Service List:
Zachary Perlick, Esquire
42 S. 15th Street, Suite 1113
Philadelphia, PA 19102

Frederick L. Reigle, Esquire
P.O. Box 4010
Reading, PA 19606

PATRICE HARRIS
6114 N. 8th Street
Philadelphia, PA 19120

All parties on the Matrix

PHILADELPHIA REAL ESTATEBOOK NO. PAGE No.
DATE RECORDED
TRANSFER TAX CERTIFICATION CITY TAX PAID
Complete each section and file in duplicate with Recorder of Deeds when (1) the full value/consideration is not set forth in the deed, (2) when the deed is without consideration, or by gift, or (3) a tax exemption is claimed. If more space is needed, attach additional sheet(s).
A. CORRESPONDENT-All inquiries may be directed to the following person:
NAME TELEPHONE NUMBER
RCS Abstract, Inc.
STREET ADDRESSCITYSTATEZIP CODE
1219 Spruce Street, Philadelphia, PA 19107
B. TRANSFER DATA DATE OF ACCEPTANCE OF DOCMENT
GRANTOR(S)/LESSOR(S) GRANTEE(S)/LESSEE(S)
JOHN D. GREEN, SHERIFF Gennadiy Babichenko
STREET ADDRESS STREET ADDRESS
100 S. BROAD STREET, 5TH FL. 625 Fairhill Ave
CITY STATEZIP CODE CITY STATEZIP CODE
PHILADELPHIA, PA 19110 Langhorne, Pa 19047
C. PROPERTY LOCATION
STREET ADDRESS CITY, TOWNSHIP, BOROUGH
6114 N. 8th St. PHILADELPHIA, PA
COUNTY SCHOOL DISTRICT TAX PARCEL NUMBER
PHILADELPHIA PHILADELPHIA
ACTUAL CASH CONSIDERATION 2. OTHER
CONSIDERATION 3. TOTAL CONSIDERATION
$64,100.00 0.00 =$ 64, 100.00
COUNTY ASSE SED VALUE 5. COMMON LEVEL
RATIO FACTOR 6. FAIR MARKET VALUE
$12,192.00 X 3.50 =$ 42,672.00
EXEMPTION DATA
AMOUNT OF EXEMPTION 18. PERCENTAGE OF
INTEREST CONVEYED

Check Appropriate Box Below for Exemption Claimed

_____

_,
(NAME OF DECEDENT) (ESTATE FILE NUMBER).
Transfer to Industrial Development Agency.
Transfer to agent or straw part. (Attach a copy of agency/straw part agreement).
Transfer between principal and agent. (Attach copy of agency/straw trust agreement). Tax paid prior deed $_____.
Transfers to the Commonwealth, the United States, and Instrumentalities by gift, dedication, condemnation or in lieu of condemnation. (Attach copy of resolution).
Transfer from mortgagor to a holder of a mortgage in default. Mortgage Book Number _____, Page Number_____ Mortgagee (grantor) sold property to Mortgagor (grantee) (Attach a copy of prior deed.)
Corrective deed (Attach a copy of the prior deed).
Other (Please explain exemption claimed, if other than listed above.)_____

_____

Under penalities of law or ordinance, I declare that I have examined this Statement, including accompanying information, and to the best of my knowledge and belief, it is true, correct, and complete.
SIGNATURE OF CORRESPONDENT OR RESPONSIBLE PARTY
/s/ DS.
DATE
3/12/07

IN THE COURT OF COMMON PLEAS
FIRST JUDICIAL DISTRICT OF PENNSYLVANIA
CIVIL TRIAL DIVISION

PATRICE M. HARRIS : SEPTEMNER TERM, 2006

Plaintiff/Petitioner

v. : **No. 002347**

HOMECOMINGS FINANCIAL SERVICES SERVICES/BANK ONE :

Defendant/Respondent

:

ORDER

AND NOW, this 18TH day of JANUARY 2007, after hearing and argument by the parties, it is hereby **ORDERED** and **DECREED** that the Court's stay of January 5, 2007 be and is hereby **DISSOLVED**. It is furthered Ordered that the subject premises be listed for sale at the next regularly scheduled sheriff's sale without further costs to or advertising by the creditor.

BY THE COURT:
/s/ [sic]
Gary F. Di Vito, J.

COPIES SENT
PURUSANT TO Pa.R.C.P.236(b)
JAN 31 2007
FIRST JUDICIAL DISTRICT OF PA
USER I.D.: /s/ NMM CIVIL ADMINISTRATION

DOCKETED
JAN 31 2007
N.MONTE [sic]

Appendix C

ORDER on Petition for Rehearing, [May 24, 2010]...i-ii

UNITED STATES COURT OF APPEALS FOR THE THIRD CIRCUIT

No. 09-3518

PATRICE HARRIS,

Appellant,

v.

HOMECOMINGS FINANCIAL SERVICES, INC./BANK ONE;
NOVASTAR MORTGAGE, INC.;
EXPRESS FINANCIAL SERVICES, INC.

On Appeal from the United States District Court
for the Eastern District of Pennsylvania
(D.C. Civ. No. 07-cv-00622)
District Judge: John P. Fullam

Present: McKEE, *Chief Judge,* SLOVITER, SCIRICA, BARRY, AMBRO, FUENTES, SMITH, FISHER, CHAGARES, JORDAN, HARDIMAN, GREENAWAY, VANASKIE and GARTH, * *Circuit Judges.*

SUR PETITION FOR REHEARING WITH SUGGESTION FOR REHEARING EN BANC

The petition for rehearing filed by Appellant having

* Judge Garth's vote is limited to panel rehearing only.

been submitted to all judges who participated in the decision of this court, and to all the other available circuit judges in active service, and a majority of the judges who concurred in the decision not having asked for rehearing, and a majority of the circuit judges of the circuit in regular active service not having voted for rehearing by the court en banc, the petition for rehearing is hereby DENIED.

BY THE COURT:
/s/ D. Michael Fisher
Circuit Judge

Dated: May 24, 2010
CLW/cc: Ms. Patrice Harris
Joseph F. Riga, Esq.
Peter J. Leyh, Esq.

Appendix D

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I. STATEMENTS

1. SUBJECT MATTER AND APPELLATE JURISDICTION

The District Court had diversity jurisdiction over this action, pursuant to 28 U.S.C. Sec. 1332, Plaintiff alleging, violation of the Truth in Lending Act, "TILA", 15 U.S.C.1601 et seq., multiple violations of Pennsylvania Unfair Trade Practices and Consumer Protection Law (UTPCPL) 73 P.S. 201 et seq. and the Catch-all provision, fraudulent inducement, fraudulent misrepresentation, conspiracy, unjust enrichment, violation of plaintiff's 13th amendment constitutional rights, (orally amended citing Title VIII of the Civil Rights Act of 1968 and the Fair Housing Amendment, 42 U.S.C. Section 1985(3) as the statutory basis) and abuse of process. The Third Circuit Court of Appeals has jurisdiction to entertain this appeal pursuant to 28 U.S.C. Sec. 1291. Subject matter jurisdiction as to a Federal question is also applicable here relative to issues in this case that arise under federal laws and the United States Constitution.

2. STATEMENT OF ISSUES PRESENTED FOR REVIEW

The issues presented on appeal are:
(1) Whether the Court's dismissal of the jury at the close of evidence effectively denied appellant her constitutional right to a trial by jury, (2) Whether the Court had adequate legal basis for the dismissal of the jury and the judgment rendered, and (3) Whether the Court erred in denying plaintiff a new trial.

Plaintiff objected to the judge's decision to allow a "Directed Verdict", Judgment as a Matter of

Law, in favor of Defendants NovaStar (NS) and Homecomings (HC). The sudden turn of events (there was no sidebar) [TR60, p.42, 25], and the judge's decision which was contrary to the weight of evidence, coupled with the impropriety of his statements and conduct, were incapacitating to Plaintiff/Appellant. However, her impending a) request for a motion, b) statement to oppose the verdict, and c) the judge's acknowledgment of the objection, were an objection, holding all issues ripe for appeal. [TR60 p.54] Furthermore, Plaintiff/Appellant filed a timely motion for a new trial under FRCP (59), and/or motion to alter or amend the judgment pursuant to FRCP (60). [APP, v1] Defendant NS filed a motion to dismiss this appeal for failure to comply with L.A.R.11. [App, v2] Plaintiff/Appellant met and provided evidence of full compliance of the rules and had provided Defendants with certified service of timely filing and required payments of the appeal, docket and transcript record in accordance with L.A.R. 11. [App, v1] The trial judge was given notice of the appeal pursuant to L.A.R 3.0. Plaintiff/Appellant has not been made aware of any written amplification of the opinion by the District Court judge. And now Plaintiff/Appellant comes before this Court.

3. STATEMENT OF RELATED CASES AND PROCEEDINGS

This case has not been before this Court and Plaintiff/Appellant is not aware of any pending, completed, or related case before this Court or any Court or agency, state or federal.

4. STATEMENT OF THE CASE

This is an appeal by Plaintiff/Appellant from a Judgment entered July 24, 2009 in favor of

Defendants NovaStar Mortgage (NS), Inc. and Homecomings Financial Services, Inc./Bank One (HC), and an Order denying Plaintiff's Motion for a New Trial, or in the alternative, to Alter the Judgment, entered July 24, 2009 by the United States District Court for the Eastern District of Pennsylvania. [App, v1] A third Defendant, Express Financial Services (EFS) did not appear, as they were granted a stay due to bankruptcy. [App, v1 - Docket, 42]

As a Pro Se litigant, Plaintiff/Appellant took on an extremely complicated task to describe the outcome of deregulation of the finance market on her personally in the loss of her home through fraud, forgery, and abuse of process, and her diligent, yet futile, efforts to have her legal matters resolved. Documents evidencing forgery and fraud in the execution of a home mortgage, bankruptcy proceedings, and foreclosure were presented by Plaintiff/Appellant. After giving testimony and evidence to the jury on documents to explain the allegations of fraud, intentional confusion, and bad faith tactics employed by Defendants to Plaintiff/Appellant's harm, [TR58, p80, 11- p.81-84 p77, 2-9], Defendant presented multitudes of documents referencing an adjustable rate with signatures purported to be that of Plaintiff/Appellate. Defendants moved under Rule 50(B) of FRCP while the jury was still at recess, and were granted a motion for 'Directed Verdict" [TR60, p43, 1-13, p46, 1-3]. Plaintiff/Appellant objected for the purpose of preserving the issues on appeal. [TR60 p.54, 6-21] Later, Plaintiff/Appellant filed a timely motion to request a new trial, pursuant to FRCP 59, or an amended judgment, pursuant to

FRCP 60, which motion was denied. This appeal relates to the Judgment dated July 24, 2009, rendered in favor of Defendants, mortgage/banks and finance agencies, and the final Order, dated July 24, 2009 denying Plaintiff/Appellant's Motion for New Trial. It is from this Judgment and Order that Plaintiff/Appellant appeals.

The trial was the culmination of a long eventful battle described by Plaintiff/Appellant as "dog chasing tail" [APP, v.1,TR58] to describe the futility experienced trying to get real help from leaders and authorities charged to protect citizens. Plaintiff/Appellant's demand for a jury trial was a key component in her quest for real justice after experiencing unlawful acts by lawyers and other involved in the Philadelphia legal system. [APP, v.2 –supplement 4a, 4b, 4c, 4d] [TR58 p.] In a reading of the lengthy, and in some places, unreadable transcription record, it appears that Plaintiff/Appellant was scattered, incoherent, and inarticulate. Many parts of the testimony are cut off. Plaintiff/Appellant would not have been allowed to proceed in such a disjointed manner with such a lengthy presentation if this in fact had been the case. The lengthening of the record was an intentional ploy by Defendant NS[TR58, p.90,6-10-25, p.92-25 p.94,19, p.96,10-20 p.96, 10-20] However, the substance of evidence shown to the jury came about as a result.[TR58, p.90,11-25, p.92,6-25, p.93, 9-21, p.94,14-25,p.99-p.100]

Plaintiff/Appellant presented to the jury, veritable testimony of an incredible and harsh journey of enlightenment on the role of corruption and greed in the city and national mortgage crisis. Excerpts were read from of letters sent seeking

redress to prevent her home from being illegally taken.[APP, v.2] This demonstration was to show to the jury, that having them present was a win-win situation , and that no stone was left unturned in Plaintiff/Appellant's search for lawful vindication and pursuit of justice, albeit in vain. [TR60 p.14, 25, p.15,1-8] Voluminous records of the docket from the Court of Common Pleas was not presented, however Plaintiff made reference to them during the trial [TR60] Plaintiff reasoned that it was not necessary to overwhelm the jury. [TR]

The often repeated phrase used to explain the massive windfall in home foreclosures, is "buyers took on more than they could handle", casting primary blame on the home buyer. Plaintiff purchased the house for 48,000 in 1998, with a variable (adjustable) loan from New Century Mortgage. putting 10,000 down as a deposit, [App, v.1, Complaint ("Cmplt")] Plaintiff had never filed for bankruptcy prior to refinancing with Defendants even with post divorce and massive school loan issues. After a two year uneventful and good payment record with New Century Mortgage, Plaintiff sought refinancing on a fixed mortgage. Defendant NS agreed to provide a fixed rate, at an interest rate slightly lower than the one held with New Century. [App, v1-Cmplt] Plaintiff first attempted to resolve erroneous and random charges with HC with repeated unexplainable defaults. Plaintiff later, upon seeing mention of an adjustable rate on a HC document, attempted to resolve the matter. After realizing intentional fraud had taken place, Plaintiff discontinued payments to HC. Plaintiff/Appellant sought Attorney help when HC threatened foreclosure action.[APP, v.1 Complaint]

Plaintiff's attorney informed Plaintiff/Appellant ten days before statute of limitations would bar her from further legal action against HC, that he did not handle predatory lending cases. Plaintiff/Appellant's filing of a Writ of summons in the Court of Common Pleas, September 2006 to toll the statute of limitations is uncontested. [TR60, p.] Plaintiff/Appellant experienced a series of unlawful and unethical actions through the Prothonotary and Court of Common Pleas. Meanwhile, while Plaintiff was pursuing what she described as a grievous illegal and unconstitutional move to dismiss her case and allegations, [App, v.2-4b] Defendants removed the case to Federal Court. Plaintiff then made a timely demand for trial by jury, but was required to first participate in an arbitration hearing. The arbitration hearing was held an attorney from Defendant's office appointed to participate. [App, v.1-Docket] After the arbitration hearing, Plaintiff renewed her demand for trial by jury. [App, v.1 Docket] The docket reflects a memo by Defendant NS in opposition for the jury trial. [App, v.1- Docket, 28]

As she sought to get relief from a fraudulent mortgage loan, Plaintiff described a journey of understanding of the involvement of mortgage and lenders, as well as lawyers, judges, the bankruptcy Court and others, in this web or network of deceit and fraud to effectively foreclose on homes. Letters too numerous to recall were written by Plaintiff/Appellant. Plaintiff argued that the foreclosure, along with a multitude of events preceding and following the lost of her home, amounted to an illegal taking of her home. Plaintiff further argues the harm and injury to her caused by

Defendants, typifies the harm brought to homeowners as a result of the lack of oversight to the finance, banking and home mortgage industries.

A jury trial was held July 8 and 9, 2009. After a two day trial, the judge spontaneously announced, "someone has a motion, and subsequently, Defendants came forward with a request for a motion. Plaintiff/Appellant objected to the judge's action [TR 60, p54, 14-22] at the conclusion of Defendant's statements.

II. STANDARD OF REVIEW

A. Standard as to Legal Conclusions: As to the application of law, review is plenary. In Federal Kemper Ins. Co. v. Rauscher, 807 F.2d 345, 348 (3d Cir. 1986), the court held that a timely appeal from the denial of a Rule 59 motion to alter or amend the judgment, brings up the underlying judgment for review. Plaintiff/Appellant's timely motion was denied by the District Court. In Federal Kemper, the court stated, "On questions of law, the appellate review is de novo, plenary, or unlimited. In such instances, the appellate court is free to substitute its judgment for that of the trial court. "The interpretation and legal effect of written instruments are matters of law, and an appellate court exercises unlimited review. Regardless of the construction given a contract by the trial court, an appellate court may construe a written contract and determine its legal effect." Unrau v. Kidron Bethel Retirement Services, Inc., 27 Kan 743, 763, 27 P.3d (2007).

B. Standard as to Factual conclusions: The standard of review is abuse of discretion. A court abuses its authority when its ruling is founded on an error of law or a misapplication of the law to the

facts. Federal Kemper Ins. Co. v. Rauscher, 807 F.2d 345, 348 (3d Cir. 1986). A reviewing court will not overturn findings of fact unless clearly erroneous. This Court held in Parenthood v Attorney General of N.J.,297 F3rd 253. ( ),that findings of fact are reviewed for clear error.

C. Standard as to Constitutional Claims: Applying the same standard as the District Court in Wittekamp v. Gulf & Western Inc., 991 F.2d 1137, 1141 (3d Cir.1993), the standard of review for an order granting or denying a motion for judgment as a matter of law is plenary.

SUMMARY OF THE ARGUMENT

The Court abused its discretion and erred on constitutional, legal, and factual grounds. The jury was presented with sufficient evidence and should have been allowed to take the whole case and render a verdict with proper instructions from the Court. Plaintiff/Appellant presented a case against Defendants mortgage/banking/finance companies as predatory lenders, who used misrepresentation, forgery, misapplication of funds, and other bad faith tactics, conspired with the intent to defraud plaintiff of her home, did in fact complete their scheme, causing injury to plaintiff. There was clear and manifest error in the decision of this case.

ARGUMENT

I. The District Court's dismissal of the jury at the close of evidence, in effect, denied appellant her constitutional right to a trial by jury.

The jury should have the right to consider the whole case. Under Bogk's Rule, "a judge cannot take it (the case) from the jury without violating the

Seventh Amendment". (Cite omitted) Under the Seventh Amendment to the United States Constitution, the right to a trial by jury shall be preserved. Appellant requested a jury trial from the onset of the case, when it was removed from state to federal court by Defendant. Contrary to Defendant NS's Motion in Opposition of a Jury Trial, Plaintiff's request was timely. [App, v1 Docket] Plaintiff/Appellant had explained in written correspondence to the judge before the arbitration hearing, [App, v.2-4d] and again, even at trial [TR58, p.94, 23] that it was necessary that she present her case to a jury of her peers because of (1) the intentional confusing nature of her case caused by defendants, and (2) because of several illegal acts evidencing corruption in the Philadelphia Court of Common Pleas pertaining to the case. [App, v.2] Plaintiff/Appellant was aware of the timing elements, and did not delay. Although Plaintiff/Appellant's diligent attempt to get help had been futile, the desire and effort to present her case before a jury had been rewarded. [TR58 p.45, 8] Even though Defendants were given twice as many challenges in selecting the jury, Plaintiff/Appellant was satisfied that the jury had heard and seen enough evidence to be able to apply it fairly, had they been given the necessary instructions regarding the laws under which the action was brought.

The Court's rule to not allow the jury to participate and its further ruling to deny Plaintiff/Appellant's motion for a new trial was an abuse of discretion.

The Court has held that in ruling on a motion for a new trial, abuse of discretion is the standard unless the denial is based on the application of a legal

precept. In that instance, the standard of review is plenary. Rotondo v. Keene Corp., 956 F.2d 436, 438 (3d Cir.1992). In the instant case, the legal principles for the dismissal of the jury and further conduct by the Court were not articulated during the trial or clarified later, other than the Court's acceptance of Defendant's arguments after the jury was dismissed. Clearly, there was no basis for the Court's action other than fear that a jury would find for Plaintiff.

II. The court erred by substituting its version of the facts and not giving the jury the appropriate instructions on the legal issues of the case.

Rather than letting the jury decide if Plaintiff/Appellant had met the burden of production, the judge supplied his opinion of the facts and evidence
[TR60 p.55, 1-25 and p.56, 1-7] and did not allow the jury to decide. In Lightning Lube, Inc. v. Witco Corp., 4 F. 3d 1153, 1166 (3rd Cir. 1993), the Court held that a judge "cannot weigh the evidence or substitute"... "facts for the jury's version".

The action brought by Plaintiff/Appellant was based on a fraudulent scheme of predatory lending, a complicated and multi-layered scam where Defendants, under the guise of the law produced a pattern of confusing acts, including overcharges on monthly statements, double billings in the month, [TR58, p. 64, 10 TR60 p.55] forged legal documents [App, Exh-7 Exh-8, TR58, p.85,10-13] misapplied plaintiff's monies, [APP, v2, supp 4a,] and other illegal acts [which resulted in her home being foreclosed on. [TR58, p.54, 23]

Throughout the course of the trial, the jury had been shown sufficient evidentiary documents. Plaintiff/Appellant had presented to the jury multiple documents in an attempt to show the forged and altered handwriting, and other methods which typified the deceptive practices of Defendant. [APP, v2, supp B] The forged adjustable rate note and other altered documents were essential to Appellant's fraud claim against Defendants. Therefore, the judge's commentary was erroneous. The judge stated to the jury: [See TR60 p.55, 12-18] "...every document in the record, and there is scores of them, make clear that this was an adjustable rate mortgage. She signed all kinds of acknowledgments of that. And her uncertainty as to whether that was her signature or not does not constitute evidence that it was not, and there's been no evidence that actually challenges the authenticity of the alleged signatures." The Court, in summarizing the case misstates the facts and evidence. [TR60 p.55, 5-20] The judge made this statement: "The principal claim of the Plaintiff was that she expected a fixed rate and actually was granted and entered into a variable rate. The problem with her case is that the only—the fixed rate was higher than the rates they later varied it to, so she couldn't possibly have claimed any injury as a result of her misunderstanding."[TR60 p.55, 6- 11] The judge's rehashing of the facts to the jury as they were being discharged was clearly erroneous and bias. The speech also demonstrates the point Plaintiff made earlier about mortgage predator targets- often uneducated unsuspecting, people who rely on the good faith and ethics of businesses. Plaintiff knew emphatically that she signed fixed rate paperwork.

There was no misunderstanding, as presumed by the judge. There was only misrepresentation, trickery and forgery on the part of Defendants. In this case, the Court's finding of fact was clearly erroneous.

III. The judge wrongfully granted the motion for a Directed Verdict.

Where there were material facts in dispute, the Court erred in granting a directed verdict. In North Philadelphia Trust Co. v. Smith, 12 F.2d 585, 1926, the Court held there could be no "judicial presumption" where there is a question of an instrument alteration. There the Court held that where the alteration exhibited itself on the face of an instrument, whether under seal or otherwise, there could be no judicial presumption and that such altered paper was, admissible into evidence without explanation. In that case, the Court held that the judge rightly refused motions for Directed Verdict. Similarly, in this case, the question of altered paper is a sharply controverted issue and the judge should have allowed the jury to decide the facts. The documentary evidence was exculpatory, so much so, that in the presence of the jury, Defendant NS put forth a good effort to employ physical means to prevent Plaintiff/Appellant from showing problematic documents that formed the basis of her fraud argument. Defendant was determined to block appellant's access to the jury to the point that he had to be told by the court several times to back away. [TR60 p.29, 6-21]

The evidence of whether Plaintiff/Appellant had proved the elements on her claim was for the jury to determine. In Patzig v. O'Neil, 577 F.2d 841, 846 (3d Cir.1978), "the court held that the question is not whether there is literally no evidence supporting the

party against whom the motion is directed, but whether there is evidence upon which the jury could properly find a verdict for that party and that all reasonable and logical inferences should be drawn in the non movant's favor when granting judgment as a matter of law. There was neither reason, nor logic applicable to justice, for the judge to grant the motion to Defendant.

IV. The Court did not have adequate legal basis for the dismissal of the jury and the judgment rendered.

The judge's decision was contrary to the weight of evidence. The removal of the jury was clearly for the benefit of Defendants. Rule 50 provides in general that where a party has been fully heard on a issue during a jury trial and the court finds that a reasonable jury would not have legally sufficient evidentiary base to find for the party on that issue, the court may resolve the issue against the party; and grant a motion for judgment as a matter of law against the party on a claim or defense that, under the controlling law, can be maintained or defeated only with a favorable finding on that issue and must specify the law and facts that entitle the movant to judgment. Given the fact that Defendants were not entitled to judgment, there was no clear legal basis articulated by the Court for granting the motion in their favor. The jury in weighing the testimony and evidence , especially after witnessing Defendant NS's presentation of the new forged original documents, and his attempt to obstruct them from viewing ns3 [TR60 p.27,13-25, p.28-p.29]

1. The Statute of Limitations does not

bar this action.

Defendants claim that the unjust enrichment claim has a statute of limitations of four years [TR60, p.44] and is therefore time barred. It is uncontested that Plaintiff filed a writ of Summons September 2006, [TR60, p.44-8] thereby tolling the Statute. The complaint was not filed, nor required to be filed until a few months later.

The Court did not specify which claims he was referring to when he stated "Almost all the claims she set forth in her complaint are barred by the statute of limitations". [TR60, p.55, 1—20] Plaintiff/Appellant's action was timely filed. Defendant NS has used the timeliness defense quite readily, probably with success, in that the confusion created by their predatory lending tactics are designed to be undiscoverable.

a. Contracts

Defendant also asserts that an unjust enrichment claim does not lie where an action is based on a contract. [60, p.44 20-21] Defendant's contention regarding an express contract was misplaced. [TR60 p.44-p.45, 1] Clearly, the bulk of the evidence and testimony presented throughout the trial was that Plaintiff never entered into an agreement for an adjustable rate contract and had full knowledge of that fact. Additionally, Defendant NS/FES's initial attempt at misrepresentation was stopped at the time of settlement. Plaintiff/Appellant had been led to believe that the fixed rate mortgage with Defendant NS was proper, and not a loan set up for to defraud. Given the fact that a lawful agreement was never entered into, there never was a contract between Plaintiff and Defendant

NS, as Defendant asserts. NS had nothing to assign to Defendant HC, despite its falsifying of Plaintiff/Appellant's signature. Under the law of contracts, an assignee (HC) takes subject to any claims or defenses against it. Given that the scheme was fraudulent, Defendants' intent and purpose was against any resolution of Plaintiff/Appellant's complaints throughout the course of dealings. In any case, Plaintiff/Appellant contends that the continuing wrong of Defendants renewed the time frame, even up to the illegal taking of Plaintiff's home and equity through the Sheriff sale in February 2007, so that the action is not barred by the statute of limitations.

b. The Constitutional Claim, Title VIII of the civil Rights Act of 1968 and the Fair Housing Amendment, 42 U.S.C. Section 1985(3)

Courts are given greater latitude with respect to timing issues where a civil rights violation is involved. Under Title VII, the statute would not be barred.

2. The Unjust Enrichment Claim against Defendant lies.

Defendant announced, after the Direct Verdict motion was granted, that the unjust enrichment claim would not lie where there was a written contract. [TR60 p. 22]. Plaintiff/Appellant's argument is that there was never a contract in that there was never a meeting of the minds. [TR60 p.14-5 p. 47, 16] Simply because Defendants forged documents, changed hands by assigning the document, and meanwhile play a cat and mouse game of misappropriation of funds does not make a contract. Defendants could not be found once the

illegality of their actions was discovered. [TR60, p.4210-15] One of the illegal strategies Defendants use is a wait out the time before its known they've been defrauded, and then make it impossible for Plaintiff/Appellant to even know what happened, thereby creating a presumption of ignorance on the part of Plaintiff. [TR58, p.97] In this case, the court's advancing that proposition was improper and biased. The conversion option papers were fraudulent, as were all of the "scores' of adjustable papers presented by Defendants.

Plaintiff/Appellant had just refinanced to get a fixed rate. She could have stayed with New Century, otherwise [APP, v.1 Cmplt] They did not respond to Plaintiff/Appellant early complaints, and worked in conjunction with the Attorney to continue further misappropriation of funds through the bankruptcy process. [APP, v.2,] Defendant's presentation of documents with varying signatures that were supposed to be identical copies raised the questions of whether there was ever a contract, which was a question to be put before the jury. The court permitted Defendants' arbitrary statement which was against the weight of evidence.

Plaintiff/Appellant, as was the case. [App, v.1, Complaint] Plaintiff's decade long persistence to uncover and ultimately discover how Defendants were able to effect the rate change was based on an emphatic knowledge that the documents she signed specified a fixed rate, and not one with an adjustable rate, conversion option, as Defendants wanted the jury to believe. At trial defendant presented evidence of a conversion option [APP, v2- Exhibit], another forged document, one that Plaintiff/Appellant never signed, nor saw until trial.

The evidence she presented when Defendant NS and/or FES initially presented adjustable paperwork supports Plaintiff's assertion. [APP, v2 Exhibit]

The Unfair Trade Practices (UTPCPL) claim against Defendant is valid.

Defendant HC admitted in his closing summary, outside the hearing of the jury, that the claim under the Unfair Trade and Practice Law was timely made, [TR60 p.] but contends that the elements of misrepresentation, reliance and harm need to have been shown. Defendant NS conceded to the timeliness of the action but claims Plaintiff/Appellant failed to establish a legal causal connection [TR60 p. between their acts and the harm done. Clearly, Plaintiff/Appellant demonstrated the elements of misrepresentation and that "but for" the continuing and multi-layered fraud of Defendants' acts as co-conspirators, Defendant would not have lost her home, and suffered a host of other financial and personal indignities related to their predatory lending scheme.

The statutory purpose behind UTPCPL, 73 P.S201 et. seq, and the Catch-All Provision was to protect consumers such as Plaintiff/Appellant from being subjected to the "ever inventive designs and practices of unscrupulous businesses". Gabriel v. O'Hara, 534 A.2nd 488, 368 (Pa.Super.383, 1987) Plaintiff presented veritable testimony, two falsified mortgage documents (upon which rests the basis of all claims to this action and alleged by Defendant NS to be "true and certified") and other documents and evidence to show a pattern of confusion and bad faith. [TR58, p 83, 2-25] Plaintiff/Appellant offered testimony and evidence of false escrow charges, false and excessive fees, double monthly statements, and

other practices of randomly applying Plaintiff/Appellant's monies to give the continued appearance that payments were not timely made. Whether the elements necessary under the Unfair Trade Practices were shown was an issue for the jury. Defendant NS admits that the UTPCL was timely made, but asserts that Plaintiff/Appellant failed to show a legal connection between something they did and the damages suffered should also have been given to the jury. [TR60 p.45, 1-8] Throughout the trial, Plaintiff/Appellant's argument was that Defendants used intentional confusion in a variety of ways. [TR 60 p.8, line 7, p.14, line 22] This enabled Defendant HC to make gross false charges using "evil genius accounting procedures" which enabled Defendant HC to make gross false charges. These persistent acts eventually resulted in her house being foreclosed. Repeated attempts to clear up matters with Defendants were never resolved, [TR60, p. 7 3-9, p. 23, 7-9] Defendants, quite aware, that no one was watching and protecting the average citizen from the greed that prevailed throughout the industry, moved with full speed. Defendants' conduct during the trial in failing to answer or explain any allegations for the overwhelming evidence and yet get judgment as a matter of law is demonstrative of that fact. [TR58 p.83, 13] There was not testimony or explanation of the multiple inconsistencies that plaintiff had produced as evidence from any of Defendant's witnesses who were present at trial. No explanation was given even though this was repeatedly requested. [TR60 p. 9, 5, p.13, 20-21 p.25, 1-13].

On the second day of the trail, Defendant NS presented mounds of neatly organized papers. [App,

v.2, Exhibit 1]The documents, although refined looking, were clearly not originals. The jury at this point would have been clear on this point. One of the primary points Plaintiff/Appellant used to demonstrate their misrepresentation and fraud is that they alter documents at will and created mass confusion. [TR60 p. 11 15-19, TR58, p.80, 12-16 80, 22-6 p.81, 5]. Here, there were new forged documents that Defendant presented at trial claiming they were originals. [TR58p.84, 17]

As Defendant spent a lot of time questioning plaintiff about the particular elements on the documents. Plaintiff stipulated that there were a lot of adjustable rate papers which purported to be her signature. [TR60 p.13 18-9] The jury was needed to weigh this evidence. [TR 60 p.8 15-25] The judge questioned the alleged originals as being photostatic copies [TRp.92, 12] that the documents were originals without looking at them. [TR58, p.101, 5-8"] The fact that Defendant was not producing the originals, and the fact that originals wee never used in an effort to cover Defendant's forgery was important to Plaintiff/Appellant's case. The documents presented were not ink signature documents. Either the judge was not listening, or the statement was made to give a false impression to the jury. Although the paperwork was crisp, on fine paper with an official seal, they were clearly not original. It was easy to see that it was a well done copy, professional looking, albeit a copy. Defendant would not show them to the jury. [TR58, p.92, 12-25] The judge could have taken a closer look also. Furthermore, in their zeal to make false originals, Defendant NS presented two entirely different mortgage copies, both alleged to be the original

mortgage document signed by Plaintiff/Appellant. [App, v.2, Exhibits 1, 2, 3] This evidence brought to Court by Defendants is forgery on its face. One would have to be blind to think otherwise. Comparing Exhibit NS-3 certified by NS as a true original, with the Recorded mortgage, also certified as true, with the mortgage papers sent by HC to Plaintiff/Appellant through the collusive Attorney, there is unquestionably strong evidence that Plaintiff/Appellant. [TR60 p. 9, 1-4] [App, v.2 Exhibit 1and 2] [TR60 p.15, 25 p.16 1-3 p.17, 4-12] Whereas, Plaintiff/Appellant's allegations against Defendants were that they forged her signature to create an adjustable rate, and continued a pattern of defrauding Plaintiff/Appellant by randomly and consistently misapplying monies to the eventual sale of her home at the sheriff sale of Philadelphia. Here there were two separate exhibits being presented by Defendant as the document she purportedly signed. Defendants did not even attempt to explain. This clearly weighed against Defendants, and what followed was the dismissal of the jury.

The jury was able to witness evidence of two mortgage documents, which were not identical, alleged to both belong to plaintiff. [TR60 p.15] Plaintiff used a copy from the Records Department of the City of Philadelphia which included a copy of the notary paper with the names of Monique Sarmiento and Mark Witmer, of Financial Express Services. [App, v.2, Exhibit 10a, 10b] Defendant presented Exhibit NS-3, as a certified as a true and correct copy of the original. The two mortgage documents read together [APP, v.2, Exhibits 1 and 2] clearly demonstrate that forgery, alteration, misrepresentation and a pattern of confusion had

been perpetrated by Defendant. The trial could have ended there.

Defendants had no intention of defending any allegation. Although Defendant witnesses, (about 4 or 5), were present, they made no effort to defend the elements of misrepresentation, fraud, forgery, and other predatory lending techniques that plaintiff alleged.

Plaintiff/Appellant's second attempt during the trial to bring up the matter of the two forged mortgage documents was thwarted by Defendant such that the court had to ask him to stand back as he attempted to use physical force to prevent the jury from seeing this clear evidence of fraud. [TR60 p.28 1-] The record from this point on clearly demonstrated that defendant companies used forgery, fraud, misrepresentation, and other predatory lending gimmicks to defraud Plaintiff/Appellant of her home. The Court's reply in agreeing with Defendant's assertion of multiple copies was error. [TR 60 p.27, 1-5] His involvement in my attempt to question Defendant witnesses. The Court should know that in transactions with integrity, there are multiple "copies", the operative word being "copies", duplicates of the one signature made on multiple documents. There should have been one document with the same signature, or multiple documents with the same signature, and the signature should have been that of Plaintiff/Appellant.

Defendant's fraud was flagrant and pervasive. The "copies" shown to the jury clearly demonstrated gross inconsistencies, not the multiple copies practiced in an agreement with industry standards where integrity is employed. [TR60 p. 22, 16-25, p.35

8-24]. Plaintiff relied on Defendants as licensed real estate business professionals and was defrauded to her detriment. [TR60, p.24] The Court's agreement with Defendant on essential points of the fraud was improper. [TR60, p.52, 8, 18, 24]

Rather than allow the jury to weigh the multitude of evidence and testimony,
the jury was given a pretextual recess, and while Plaintiff/Appellant was the only African American in the courtroom, a circus of events ensued, in violation of Plaintiff/Appellants legal and constitutional rights. [See TR60 p.43 through p.54]

III. The Court's disregard of appellant's constitutional challenges was error.

Appellant advanced several counts in her Complaint against Defendants [APP, v.1Cmplnt], one claim based on the Thirteenth Amendment to the United States Constitutional. Before the trial began, parties to the action (Plaintiff and counsel for Defendants) went into the Judge's chambers to discuss certain preliminary matters. Plaintiff/Appellant requested to orally amend her Complaint to cite the statute relevant to her constitutional claim. Although the acts alleged were against her personally, she argued that the pervasiveness of real estate fraud has greatly impacted the poor of our community, white and black. She further argued that Defendant's act to deprive Plaintiff/Appellant is part of an accepted plan in communities of poor, and African American. As part of her case, Plaintiff/Appellant claimed that certain individuals, elderly, women, single parents, poor, African Americans, are targeted for Defendants' scheme. Appellant raised her constitutional challenge again at the prior to her

objection. In support of Defendants motion for a Directed Verdict, Defendant NS arbitrarily advanced an alternate statute and case law, in a subtle joking manner, continuing in the same racially offensive charged atmosphere beginning with the "You People" statement by the judge. [TR60, p.51] A motion for a new trial, or amended judgment was filed shortly thereafter with the same truthful averments.

The judge's statements and conduct was sufficiently improper.

The judge demonstrated bias and partiality in his continued support of Defendants' erroneous statements. His admission in the statement that "it was apparent from the beginning that although you think you were wrong, you obviously were not. And you don't seem to be able to get that through." [TR60, p.53-22-25 p54, 1-6]; essentially admitting that the trial was a farce from the beginning to end, and Plaintiff/Appellant's Complaint of her injury, was a waste of time before the Court.

Several tests have been advanced to determine the level of bias necessary to disqualify a judge under 28 USCS Section 455(a). Bias can be based on gratuitous comments and like matters of sufficient impropriety. The test being, would a reasonable person doubt his impartiality. The court mischaracterized Plaintiff/Appellant and made several personal attacks. "I think it's obvious to everybody in the Courtroom, with the possible exception of the Plaintiff, that she's out in left field somewhere. First of all, [it's] not the obligation of these Defendants to solve all your problems in life. There certainly is not the slightest indication of any racial issue in this case and the fact that you're advancing that issue doesn't do you much credit."

[TR60, p.53-22-25 p54, 1-6] Throughout the trial, Plaintiff/Appellant presented documents and evidence to the jury, and was confident they had seen enough to make a sound decision, once given the necessary instructions regarding the legal claims advanced.

The judge's comments and actions taken as a whole would cause any reasonable person to undoubtedly recognize the impropriety of his comments and conduct. The Code of Judicial Conduct (Canon 2), requires a judge to avoid impropriety and the appearance of impropriety in all activities. A judge should perform the duties of the office impartially and diligently. "A judge shall disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to instances in which the judge has a personal bias or prejudice concerning a party ..." (Citation Omitted) The judge acted improperly in this case in several instances, even rising to the level of egregious and racially offensive conduct.

Tampering of the record most likely occurred in several places in response to Plaintiff/Appellant's Motion for a new trial. However, in preparation for the appeal, Plaintiff/Appellant read a rewording, and somewhat watered down version of the *actual statement made*, which was "I don't know why you people always blame your problems on society." The rewording read, "First of all, its not the obligation of these Defendants to solve all your problems in life.[See TR p.53, 25- p.54, 1] The statement was made near the statement "I think it's obvious to everybody in the Courtroom, with the possible exception of the Plaintiff, that she's out in left field

somewhere." [TR60 p53, 22-24] The statement was offensively clear, and yes, if admitted a definite embarrassment to one in such a lofty position. However, it was made.

Plaintiff/Appellant was the only African American present at the time of the judge's spurious comments. The jury was in recess, thereby excluding the only other African American participating in the trial. It is important also to point out that the African American woman regularly assigned as Court reporter was dismissed from the trial after assisting early on Day 1, and a young white court reporter brought in. The docket lists her name as performing on Day 2 [App, v1 Docket, 52], but she was not present during the trial.

To the jury the judge opinioned TR60 [p.56,3-7] "I can understand that Plaintiff feels that she has been badly treated by society, and that many poor people and many African American people are treated improperly in our society still. But this lawsuit is not a way to address those problems". The comments aforementioned, coupled with the arbitrary Directed Verdict demonstrate a high measure of impropriety. It is a well settled proposition of wisdom that out of the abundance of the heart, the mouth speaks. (Quoting bible verse, King James Holy Bible) The judge was obviously not qualified to render a fair verdict in this case.

Plaintiff/Appellant's request for a new trial was based on statements which are unequivocally indicative of partiality, bias, and possible racial animus.

Plaintiff/Appellant takes offense at the court's stereotypical characterizations. Rather, Plaintiff/Appellant should be "credited" for her strength and

tenacity, despite the horrors she experienced at the whim of Defendant, and despite obvious disadvantages in seeking to have her issues addressed at law by a fair and impartial tribunal. This trial was not held in a fair tribunal.

In a recent Supreme Court Case, Justice Kennedy referred to "precedents when the probability of actual bias on the part of the judge ...is too high to be constitutionally tolerable. (Citing Withrow v. Larkin, 421 U.S. 35, 47 (1975). That case involved campaign contributions and a judge's personal interest, while here the judge's commentary and conduct can be objectively measured. The court found in Withrow, as it should in the instant case, "bias too high to be constitutionally tolerable, and grounds for recusal." At the conclusion of the trial, Plaintiff/Appellant summarized the outcome of the trial to family, friends and colleagues, by quoting the presiding judge's "you people" statement. The response of these reasonable people (of all races) was universal, either a one-word comment- "What!", a shake of the head, or other similar reaction to this outrageous violation of Plaintiff/Appellant's civil rights.

B. The Court's decision to dismiss the jury appeared to have been based on exparte communications with defendants.

At the conclusion of evidence on day two of the trial, the judge dismissed the jury and announced "I understand someone has a motion." [TR60, p.43-13] Defendants had apparently communicated this matter to the judge out of the hearing of Plaintiff/Appellant. There was neither a request for a sidebar as indicated in the record [TR60 p.42, 25], nor an actual sidebar at the conclusion of the

evidence. Had Plaintiff/Appellant witnessed it, she would have made an objection, realizing that one party should not have a private sidebar conference with the judge. Defendant NS's excessive, frivolous, and repetitive questioning on day one was apparently planned to delay the trial to obtain an audience with the judge.

Earlier in the day, there had been a sidebar conference with script from the conference included in the record. [TR60, p.4, 7-25, p.5, 1] Here, there was none. The judge called for the motion from Defendants in a manner of anticipation. No discussion took place during the hearing that would have indicated this action was going to take place. The trial was a miscarriage of justice.

CONCLUSION

The Court committed plain error in denying plaintiff a new trial. The decision was contrary to the weight of evidence. Judgment was not rendered based on the facts of the case, nor the law, but on an emotional position of the presiding judge, in violation of Plaintiff/Appellant's civil and constitutional rights. Plaintiff/Appellant requests that the Order and Judgment of the District Court be reversed, with Judgment rendered in favor of Appellant, or a Trial de Novo.

Patrice Harris

/s/ **Patrice Harris**
Plaintiff/Appellant, Pro Se
930 E. Durham

Philadelphia PA 19150

UNITED STATES BANKRUPTCY
COURT FOR THE EASTERN DISTRICT OF
PENNSYLVANIA

FILED
SEP 29 2006
Timothy McGrath, Clerk
By _____Dep. Clerk

In RE:

PATRICE M. HARRIS,

vs.

Debtor

Case No, 04-12385

Bank One, NA, as Trustee,

Chapter 13

Creditor

Debtor's Motion for Injunctive Relief and Grant of Extension of Time for Automatic Stay
Pursuant to U.S.C Title 11A, Rule 9014, 7062, 8005, 7001, Part VII, and 361(2)
To the Honorable Justice Raslavich of the United States Bankruptcy Court for the Eastern District of Pennsylvania.

1. Movant is Patrice Harris, debtor in bankruptcy action 04-13285.
2. Debtor entered a Chapter 13 plan beginning April 4, 2004.
3. Debtor filed an emergency dismissal of the bankruptcy action on 9/20/06.
4. Your honor signed it on 9/22/06 at the request of the debtor who appeared in court after debtor's counsel, having full knowledge of reason for request, appeared on 9/22/06 but did not get the order signed.
5. Debtor arrived in court later and requested signature to the Motion for dismissal to

preserve debtor's legal rights against mortgage company.

6. Debtor learned from party, other than her bankruptcy counsel, that the statue of limitations would run in 7 days, other than her bankruptcy counsel, that the statue of limitations would run in 7 days against any legal recourse against Creditor.
7. Debtor agreed to enter bankruptcy in January 2004 for the express purpose of legal review and resolution of consumer fraud issues and usurious practices by Creditor Homecomings Financial/Bank One against debtor.
8. At the commencement of the bankruptcy action, Debtor informed counsel of her bona fide dispute against Creditor.
9. Debtor's contested matters were not pursued while Debtor under the Chapter 13 plan.
10. Debtor's issues should have been raised in an adversarial proceeding.
11. Debtor filed a summons in the Court of Common Please on 9/22/06, with a complaint against Creditor Homecomings/Bank One to follow.
12. Creditor abused/misused the bankruptcy process to effectuate an unlawful scheme in furtherance of predatory practices against debtor.
13. Debtor made timely payments to trustee from 4/04 to 8/06.
14. Debtor made all monthly mortgage payments due to Creditor under the plan until 8/06.

15. Some payments to Creditor were mailed late in the month.
16. Creditor misapplied mortgage payments received under the plan using a "partial payment" scheme, making late deposits, and the omission of a deposit.
17. Throughout the plan, Creditor filed a series of frivolous motions, made solely for the purpose of coercing Debtor into waiving a right generated to the debtor under Title 11.
18. Creditor was granted a motion for a stipulation agreement which was without merit, and effectively thwarted the Chapter 13 Plan in violation of Rule 9011 of the F.R.B.P.
19. Debtor request injunctive relief against Creditor Bank One for good cause, pending court action.
20. Debtor's equity in property exceeds by more than half, the amount Bank One claims.
21. $ 37,500 was the amount of the loan paid by Creditor to Debtor's previous mortgage company in October 200, $44, 000 being the cost of the loan to Debtor.
22. Substantial improvements have been made to property.
23. An appraisal given September 2006 values the property at $ 85.000 to $95,000.
24. Debtor has maintained home insurance on the property at all times since her 1998 purchase of the same.
25. The note upon which Bank One is attempting to foreclosure is fraudulent.

26. A harsh result would result to Debtor due to lack of redemption rights should a sale of property proceed.
27. Granting of the order will afford Debtor the opportunity to obtain effective counsel, and seek relief under the consumer Fraud Act, Truth in Lending Act, and other laws applicable to Debtor/Creditor's transaction.
28. Debtor will continue to make mortgage payments as ordered by the court.

Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120

February 12, 2007

To the Prothonotary:
Room 284, City Hall
Philadelphia, PA 19107

Dear Mr. Joseph Evers.

I am want to make you aware of recent acts that have recently taken place in the court dockets under the auspices of the Prothonotary's office that are illegal and will probably be explained as a "clerical mishap" The action essentially is a move designed to shut out my legal action in fraud against some major financial institutions and to prevent me from having my day in court. It is a deceptive and egregious attack against my constitutional rights. I am writing you so that the error can be taken care of expeditiously.

I have paid the additional costs and submitted a motion to correct the record since a clerk cannot arbitrarily adjust the record. I sent it back to Judge Gary DiVito. the response date recorded is further complicating the matter. This is purely a Judge/Clerk matter. Please assist me in getting this matter resolved. Thank you in advance.

Sincerely,
/s/ Patrice M. Harris
Patrice Harris, BA, MLS, JD

Dear Mayor Street:

I am in the process of contacting any and every voice with power, so I respectfully appeal to you. I am an average hardworking citizen whose home is about to be sold at a sheriff sale. I was supposed to have been one of the group when they called for the moratorium. I avoided that batch because I sought an attorney, or rather, an attorney sought me, advised me to get into a chapter 13 plan, dragged me through 29 months and $18,000 more, and now they are ready to rob me of my home. By the way, the mortgage document is a white-out, cut and paste job. A forgery. With 1700, and 9 months remaining on the plan, I dismissed when the attorney finally tells me predatory lending was not his specialty. Fortunately, there were 7 days remaining before the statute of limitations ran. I have a court action pending and a January 2007 sale date. With the pain that I'm experience because I've been robbed of a lot of money and now my home, I am discovering a network in this city. I didn't have a foreclosure judgment when I went to the attorney. He had plenty of time to answer the complaint but that's not part of the plan. Folks are getting rich on the backs of powerless citizens. There was a cry against this outrageous scheme against city homeowners, which seemingly has grown silent. At this time, my current focus has been to contact the regulatory authorities, department of banking, attorney general, etc. But I plan to leave no stones unturned. Thank you for you assistance.

Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120
(215) 927-5116 harrpm55@verizon.net

Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120
March 5, 2007

President Judge
C. Darnell Jones, II
Room 386 City Hall

Dear President Judge Jones:

I am writing to report to you an incident involving judicial/clerical corruption in a mortgage fraud case that I had pending in the Court of Common Please. The dockets were altered to close out my pending action. I am enclosing a copy of a motion To Correct the Record which explains what happened. The outcome of the matter was to remove the case to federal court.

What recourse, if any, can you suggest that I take? I am requesting that my case be remanded to state court but I want to be assured that I will be heard before a fair and impartial judge.

I also want to inquire about the process involved when a judge makes a decision a motion. In the case of my emergency stay petition, is there a requirement for an accompanying memo from the judge when he decides the order?

Thank you for any assistance you can offer in this matter.

Enclosures/

Sincerely,

Patrice Harris, BA, MLS, JD
(215) 927-5116

Patrice Harris
P.O Box 24299
Philadelphia, PA 19120

Honorable President Judge
C. Darnell Jones, II
Room 386 City Hall

March 4, 2008

Dear Judge Jones:

Thank you for the time you took to meet with me regarding my allegations of judicial misconduct. I appreciate your wisdom and insight in the matters of which we spoke.

It is my belief that until there is an uprooting of what appears to be an entrenched systemic pattern of corruption in the area of real estate fraud in our city, the measures available will only provide superficial protection to us, the injured victims. I am encouraged that you and other leaders are positioned and working to make a difference. Again, thank you.

Sincerely,
/s/ Patrice M. Harris
Patrice Harris

Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120

June 20, 2007

Mr. Robert Weiss
Supervisor, 2nd Filing Unit
Office of the Prothonotary
City Hall, Philadelphia

Dear Mr. Weiss:

I am writing to inquire about a problem that I am having with the filing of Court records that I bring to the Unit.

On April 19, 2007, I filed a certificate of service for an appeal from Municipal Court. (01533) When I reviewed the docket several days later, the certificate was filed. Subsequently, it was removed. On May 31, 2007, I again brought in the certificate of service to be filed. To date, it has not been filed.

Additionally, I would like to know the procedure to request a refund of $38.80 spent on a Motion to Correct the record for a prior misfiling of my records on Case No. 060902347.

I am enclosing copies of the certificate of service which were date stamped by your office. I would appreciate you assistance in these matters.

Sincerely,

/s/ Patrice Harris

Patrice Harris

Enclosures/

Sheriff John Green
Sheriff, Philadelphia County
Philadelphia, PA
Dear Sheriff Green:

I met with you last April to discuss the fraudulent conveyance of my home located at 6114 North 8th Street, which was sold during the February 2007 sheriff sale. Your advice to me was that I should continue to pursue any legal remedy through the court, that you were without authority to stop the process that was happening at the time which I described to you, and which was in fact, an illegal taking of my home.

Furthermore, from early fall of 2006 until the time you agreed to meet with me, I regularly visited the sheriff's office in an attempt to seek help in the matter. I am requesting verification from your office of the above fact. My cases are still pending. One, the arbitration hearing in Federal court is scheduled today, and although one defendant is trying to get a delay. The quiet title action in the Court of Common Pleas is scheduled for early January 2008. In the meantime, the investor who bid for my home is attempting to act on a landlord-tenant eviction. Yesterday, he acted on a municipal court notice that was clearly illegally obtained, by breaking into my home and bolting the windows and doors. His lawyer was rebuked for going into landlord tenant court by Justice Greenberg during the July appeals hearing. Even through the cases are pending, he apparently believes he has the right to my home.

I am concerned for the safety of my family. Needless to say, this has been a horrendous ordeal. I would appreciate any assistance you can offer.Sincerely,

/s/ Patrice M. Harris

Patrice Harris

January 26, 2007

Dear Councilwoman Tasco: I am in the process of fighting an illegal foreclosure of my home and have discovered that this is big business in our city. I was told that you are involved with the Banking Committee. There is a definite need for tighter regulation of these mortgage companies. I am giving my service to do what I can do, not only for my family, but for many who may not understand how they were taken advantage of, nor have the voice to express their anguish. I will contact my local leaders. Will you provide some general guidance. Thank you for any assistance you can offer. Patrice Harris (215) 927-5116.

November 23, 2006 Thanksgiving Day
Dear Lady Bush: Happy belated birthday. We share not only November 4th as a birthday, we also share the same profession. I am a teacher, and children's librarian. I am also the mother of a beautiful daughter.Although there are a few years of difference in our age (smile), there is a world of difference with respect to our struggles as American citizens. You, as the leading lady, are unquestionably one of the most powerful women in our nation. I am the small voice of an African-American woman involved in a fight for my home.

In this great city of brotherly love, taking the homes of powerless citizens at any cost is big business. My home is being taken on a loan document that is fraudulent, a simple white-out, copy, cut and paste job. I believe what I am experiencing is characteristic of the unscrupulous and oppressive methods that "reputable" mortgage lenders use with increasing regularity against everyday American citizens. In 2003, Philadelphia experienced what was termed a "mortgage crisis" when an incredible number of homes were going to be auctioned at a sheriff sale. As I read the articles and reports that ensued, I find there were some small measures taken. However, it appears that many of the changes were made in the spirit of blaming the victims while the companies simply change names and continue their wrongful, and illegal tactics through a corrupt network.

I am in great pain. However, I realize that I am in this position for a reason greater than myself. I am now reaching to voices with more volume and power than mine. Sincerely, A true American citizen Dear Reader: Please forward my letter to

Mrs. Laura Bush. Patrice Harris 6114 North 8th Street Philadelphia, PA 19120
harrpm55@verizon.net

Exhibit 3/b
Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120

September 27, 2006

Commissioner of Records
Philadelphia, PA
City Hall

Dear Commissioner:

[sic] bank 10/30/00

A mortgage was recorded on my property on 10/01.The documents are not originals and the copies are fraudulent. I am attempting to get this urgent matter resolved. I am requesting an attestation of the condition of the documents recorded. Please assist me in whatever way you can. Thank you for your assistance.

Sincerely
/s/ Patrice Harris
Patrice Harris
(215) 927-5116

PS. Additionally, I received information from Cumberland County that the notary was not true. I am in the process of seeking court relief from a predatory lending operation. Time is of the essence. Again, thanks

Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120

Office of the Circuit Executive
United States Third Circuit
Philadelphia, PA 19106-1790
To Whom It May Concern:

As a member of the public, I appreciate the opportunity to comment on the reappointment of Justice Stephen Raslavich. I don't believe that Judge Raslavich is worthy of the honorable title. A judge holds one of the highest offices in the nation. It is a position of authority and respect. I have observed Justice Raslavich to be a rude and churlish person who lacks the requisite integrity that should accompany his position. I entered his jurisdiction as a party seeking justice. First of all, he was unprepared and had not taken the time to read the memorandum of law which had been properly submitted on a timely basis. Next, he questioned my former attorney after I informed the judge that he no longer represented me. (I suspected him of collusion with opposing counsel). Then he listened to opposing counsel, who had not filed a timely response, as she cheerfully announced victory in getting my house scheduled for a sheriff sale. However, when I attempted to speak, he stretched out his neck and eyeballed me in an undignified fashion. His explanation for not honoring my legal right to be heard was that he knew the attorney who had represented me because he stands before him regularly. He didn't put forth any effort to try to make sense. The loss of a home is a serious matter, particularly when it is taken through fraud and

deceit. My research over the past several months has disclosed that the foreclosure crisis is a spurred network of so-called reputable companies, real estate moguls, and leaders motivated by greed who look the other way. The sub prime mortgage crisis as reported in the news does not emphasize the dark side showing the illegal and ruthless actions of certain mortgage lenders. Judges are appointed to be part of the solution. In an attempt to be discreet, a member of the bar likened the judge's attitude as that of a "man in a bad marriage". Although I am not usually an advocate of divorce, in this case, it would be in the interest of the public he has been charged to serve, if Judge Raslavich is allowed to move on. His usefulness to the court should be seriously questioned. His reputation and demeanor do not honor the Court. Be assured that this letter is not written in anger, but in boldness and truth. I am enclosing a letter I gave to Judge Raslavich last October which substantiates the respect I hold for his position. One doesn't have to look far to note the problems of leadership and corruption in our city and beyond. The times are chaotic, but we must not sit back and let evil prevail. It remains our duty to speak out and preserve whatever semblance of integrity and honor that remains. Through providence, I happened upon the March 9th announcement. Whatever the outcome of the reappointment process, I am grateful for the opportunity to speak.

Enclosure/

Sincerely,

Patrice Harris, BA,MLS, JD
"If the foundations be destroyed, what can the righteous do?"
-Psalm 11:3

Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120

October 28, 2006

Eastern Division of Pennsylvania
900 Market Street, Suite 204
Philadelphia, PA 19107

Dear Justice Raslavich:
I have been taught to respect those in positions of authority- principals, pastors, rabbis, police officers, and of course, judges. Therefore, I write this letter with candor, and sincerity, not forgetting to grant you all the respect worthy of your honorable position. When it comes to sound judgment, problems occur when those in ruling positions, forget who gave them their authority. In my personal and professional opinion, you were out of judicial character when you gave a judgment based on your assessment of the personality of my former attorney. I purposely refrained from making any comments about him because I knew it wasn't the appropriate forum to do so. Rather, I chose to remind you that I stood before you without representation. My request of you was for you discretion on a legal matter before your court. I was not going to go tit for tat in response to your rudeness toward me. It would be impossible for

Homecomings Financial and other lenders to come into our neighborhoods and take our homes as they currently do with regularity, if righteousness prevailed in our legal system. In your leisure, please read the story of Goliath from the Book of I Samuel. Goliath is a metaphor of the predatory lending that is taking place with alarming success right before you eyes. Only recently did I read the story and noticed that *one carried a shield* before Goliath (17:41). Since my battle under you jurisdiction is on loan procedure through fraud, I have been pondering the role of the legal system as a shield to this "giant". Well, we know what happened to Goliath through the power of the Righteous Judge. The question for us to consider, and for those who wield that type of power to decide is, what happened to the shield? May you grow in wisdom and honor, in favor with God and man.

Respectfully Submitted

Patrice Harris

BERRY AND PERLICK
42 SOUTH 15TH STREET, SUITE 1000
PHILADELPHIA, PA 19102
Phone (215) 569-2922
Fax (215) 569-1444
Zachary Perlick, Esquire

February 9, 2004

Patrice Harris
6114 N. 8th Street
Philadelphia, PA 19120

Re: Chapter 13 Case

Dear Patrice, I hope all is well with you. This is just a reminder of our contract for the legal fee and filing fee for the bankruptcy case. The agreement calls for payment of $700.00 in legal fees and $194.00 for the filing fee before the case is filed. I will not be sending a bill, so please mark your calendar to remind yourself. All payments should be made payable to, "Zachary Perlick, Esquire." The case will be filed as soon as the last payment is made. Once the case is filed with the Court you will be required to pay the regular monthly mortgage payments directly to Homecomings. The arrears will be paid through the Trustee. I will be sending you more information on this later. ***Your case will also include an examination of the escrow account that Homecomings maintains for you.*** Homecomings will have about three months to provide us with documentation explaining their escrow charges and disbursements. Your original documents are enclosed. Please keep them, we may need originals at a later date. If you have any questions please call me. Very truly yours,
/s/ [unsigned correspondence] ZACHARY PERLICK, ESQUIRE

Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120
November 18, 2005

Zachary Perlick
42 South 15th Street
Suite 1000
Philadelphia, PA 19102-2203
Dear Mr. Perlick:

Please help me resolve my financial matters with Homecomings Financial. Recently, we both received a letter from Homecomings stating that my mortgage rate increased. When I signed with Nova Star, (who sold my account to Homecomings), I did *not* sign only to an adjustable rate mortgage. My one mandatory requirement was that my rate be fixed so I was careful to note this. I was going from an 11% and some adjustable rate with Century to a 9% and some fixed with Nova Star. The paperwork from Nova Star is an **unsigned** copy of an agreement. Something shady happened when my account was promptly sold to Homecomings. Since my account with Homecomings, I've consistently had problems with them. They continue to overcharge me and have not explained the overcharges to this day. I want to refinance my mortgage and get away from Homecomings *without paying them money I don't owe*. How can I do this? I've seen in the local news how Homecomings through their law firm routinely take the homes of powerless folks. My monthly statements are boosted, I've paid $200 a month for almost 2 years, and the real estate taxes that I paid for 2004 still have not been applied to my account. Please advise.

Sincerely,

/s/ Patrice Harris

Patrice Harris
Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120
January 5, 2007

Pennsylvania Department of Banking
Mr. Robert Willis, Jr.
Administrative Officer
Consumer Services Specialist
Dear Mr. Willis:
I contacted Marci Quisenberry of Homecomings Financial on January 2 as soon as I received the fax from your office. I am enclosing my faxed response. She returned my call and kindly left a message to get the papers to her by Friday, today. I know that Homecomings can postpone the sale at any moment, and given the illegal nature of their actions, that is the right thing for them to do. **The submission of my financial information, which is their request, does not make the least bit of sense to me. This foreclosure is not happening due to my failure to make payments as Homecoming is alleging. This foreclosure is Homecomings' response to my attempt to get assistance against them for them misapplying my funds/ and for the tampering and reconstruction of the loan document.** As my letter to Ms. Quisenberry states, I am definitely interested in an alternative to foreclosure. My employment status and my ability to pay have remained constant. For the past two years, I paid under protest, expecting to get the matter settled. I will agree to any reasonable arrangements, under protest, while the matters are disputed. The response letter given by Homecomings

was vague in responding to my allegations of false charges. I will submit my rebuttal letter on next week so that I can get an adequate explanation. In the meantime, there is an urgent matter I must attend to today because Homecomings did not accept legal service from the subpoena company, and Novastar has filed an order for the Complaint to be filed now or I risk a dismissal of my legal action. Again, thank you for your service thus far. Your courteous and professional intervention has definitely helped with communication.

Sincerely,
/s/ Patrice Harris
Patrice Harris

Dear Sir/Madame:

Please forward this letter to your president/vice-president, or someone with actual authority.

For six years, you (Homecomings Financial) have tried to take my home on the forged mortgage document you purchased form NovaStar. I am still waiting for the opportunity for legal redress but in the meantime. I am asking you to resolve this matter before the sheriff sale scheduled for January 2007. The fact remains that you are not legally entitled to my home, nor my monies. I am tired and extremely bothered not only because of the personal pain I've experienced by being robbed, but also the realization that many others have been likewise affected. **Even though corruption seems to be the order of the day, there must be someone in your organization with integrity. Your most recent tactic to prevent me from refinancing by inflating arrears has succeeded. The company was scheduled to refinance me were it not for your reporting me as 7 months in arrears, and now, a month later, as 12 months in arrears. Your tactic to send have a lawyer solicit me in 2004, allow the judgment go to foreclosure while dragging me through** a Chapter 13 bankruptcy plan for 29 months was also successful. Since you didn't expect me to keep up with the payments (I thought he was on my side), your next strategy of not depositing my March 2006 payment, disregarding my real estate tax payment and not refunding it, using a scandalous accounting system, and then getting a stipulation order for me to pay an additional 578 was sheer evil genius. By this time, I knew the attorney was working for you. So 29

months and $18,000+ later, you still arrange a sheriff sale. I now understand how companies like yours have been able to work this mortgage crisis. First you profile unsuspecting victims. After you trap them, you position lawyers, judges and other powerful folk who are willing to sell their souls for a nickel. How sad. Then the fallout when your works are uncovered, is that "some people don't need homes", or "we need to educate these people", or "this is happening because people are losing their jobs". Sometimes this is true, but I am still searching, and have yet to see the blame placed where it belongs, on the last day greed and corruption in high places. I am not asking for any favors. I am asking you to take your hands off that which is mine. I have more than paid for that 37,500 forged loan. I did not refinance for repairs. I did not refinance for cash-outs. I refinanced strictly to obtain a fixed loan so that I could continue rebuilding my life and credit from devastating events that took place prior to my purchase of a home. You gave me the loan, and then simply used white-out and forgery to change the terms of the loan. You have hindered my life progress and injured me and my family by your wrongful conduct. Time is critical. Patrice Harris

/s/ Patrice M Harris
6114 North 8th Street
Philadelphia, PA 19120
Homecomings Loan 0432338309
NovaStar 0000257675
[mailed 11/07]

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

PATRICE HARRIS

Vs.

HOMECOMINGS FINANCIAL
CIVIL ACTION NO. 07-622
SERVICES, INC. / BANK ONE
NOVASTAR MORTGAGE, INC,
EXPRESS FINANCIAL SERVICES,
INC.

MOTION AND MEMORNADUM

Plaintiff requests a new trial pursuant to F.R.C.P. 59, or in the alternative, a motion to alter the judgment in favor of plaintiff, pursuant to F.R.C.P. 60.
At the close of the presenting evidence, the court dismissed the jury and granted defendant's motion for judgment as a matter of law, thereby affecting substantial rights of plaintiff and was plain error.

On June 8 and 9, plaintiff presented her case against defendant mortgage/finance companies alleging a predatory lending scheme effected through fraud, forgery, and an intricate network of parties who with the intent to rob plaintiff of her home, did in fact complete their scheme., causing injury to plaintiff. Documents evidencing forgery and fraud in the execution of a home mortgage, bankruptcy proceedings, and a foreclosure were presented by plaintiff. After giving testimony and producing multiple documents to demonstrate defendants' tampering of legal documents, forgery, and accounting inconsistencies, the court summarily and arbitrarily dismissed the jury.

The court erred in not giving the jury the appropriate instructions on the issue of a contract, the continuing harm

alleged by plaintiff which might negate defendant's statute of limitations argument, and most importantly, the constitutional violations argued by plaintiff. Prior to the trial, plaintiff requested her complaint be amended to cite the statute authorizing her Thirteenth amendment claim, (Title VIII of the civil Right Act of 1968 and 42 U.S.C. (1985) (3), the Fair Housing Amendments). This statute, enacted to protect parties from clandestine operations similar to those alleged by plaintiff, would certainly have withstood a statute of limitations argument, and as stated before the court, it gives broad construction and latitude. The court erred in not allowing the jury to determine the merits of the case.

The court abused its discretion in summarily dismissing the jury at the close of evidence, denying plaintiff her constitutional right to a jury trial. Plaintiff had presented multiple documents as evidence of fraud and forgery in support of her allegations. The court concluded something to the effect of "there are all kinds of documents in a mortgage loan transaction". Plaintiff presented two mortgage documents provided by defendant. The documents, which supposedly were copies had two obviously different signatures., neither signed by plaintiff, but which was used by defendants to successfully pursue the fraudulent scheme which resulted in the the predatory lending scheme for which plaintiff brought defendants to court to answer for. When plaintiff called for witnesses to explain the overwhelming evidence of problems with the documents, there was silence in the court.

The court abused its discretion in apparently conferring with defendants outside of plaintiff's hearing once the case had begun. The manner in which defendants were called for their motion indicated that the court had prior knowledge of the manner in which defendants were going to proceed.

Defendant used frivolous delay and dragged the hearing out to day two, asking repeated and nonsensical questions under the guise of questioning plaintiff as a witness. Defendant would not allow any of its witnesses to testify to explain the documents presented by plaintiff as evidence of forgery and fraud.

The court indicated bias in its judgment by making an explicitly offensive racial "you people" statement. The impropriety of the statement is further magnified when heard in its totality, "I don't know why you people always blame your problems on society". There was no clear reasoning from the court giving the legal basis for its rule other than a personal attack that on plaintiff, "you're out in left field...and the only one who doesn't know it." While dismissing the jury, the court stated that it was finding against plaintiff, and that arbitrators did likewise in an effort to give credence to the abrupt dismissal with no sound or clear reasoning from the court. The court did not explain that the arbitration hearing was held by a group of local attorneys, one who worked in the same firm as one of the defendants.

The court abused its discretion in not allowing the jury to decide the constitutional issues that plaintiff raised in her actions. The complaint was brought under several statutes, included the Fair Housing Act authorized by the Thirteenth Amendment to the United States Constitution.

Wherefore, in light of the court's bias, apparent impropriety, and disregard for plaintiff's constitutional challenges and constitutional right for a trial by jury, plaintiff moves for a new trial
Respectfully Submitted

/s/ Patrice Harris

Patrice Harris (215) 613-6092
8642 Jackson Street
2nd Floor,
Philadelphia, PA 19138
June 18, 2009

IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Re: Patrice Harris v. Homecomings Financial Services, Inc./Bank One, etc.
Civil Action No. 07-622

Patrice Harris
7740-C Stenton Avenue #208
Philadelphia, PA 19118

September 14, 2008

Dear Judge Fullam:

I recently received correspondence from your office regarding the status of my case, Civil Action 07-622. I am writing to request that my case be taken out of suspension and be placed in active status.

The case was removed to federal court by Attorney Brett Messenger, legal counsel for Express Financial Services, and later placed in suspension, also at his request. According to Attorney

Messenger, Express Financial Services had entered into bankruptcy. I am unaware of their current status.

When I received the recent letter from the Court, I immediately notified defendants Homecomings Financial, NovaStar, Express Financial Services, and the Court of my change of address. Furthermore, I met with an attorney who has agreed to represent me in this matter. I will need about two months before I have the full balance he requires as a retainer.

Even though at this juncture I have lost my home, I anticipate the opportunity to seek redress in a court of law. Thank you for your consideration of this matter.

Sincerely,
Patrice Harris
(215) 927-5116
September 14, 2008

November 15, 2006

Patrice Harris

6114 N. 8th Street

Philadelphia, PA 19120

RE: Homecomings Financial

Loan #0432338309

Our File #03120533

REINSTATEMENT INFORMATION NOTICE

Payments Due (5 @ $396.34) $
1,981.70 Payments Due (6 @ $422.76)
2,536.56 Payments Due (1 @ $437.97)
875.94

Late Charges Due
740.09

Escrow Overdraft 1,086.56

Bankruptcy Fees & Costs 1,445.22

Less Miscellaneous Suspense 233.14

Net Other Fees 336.50

NSF 336.50

Sheriff-Sale Deposit 1,700.00

Lexi Legal-Post NOS 65.00

Title Bringdown 125.00

Rule 3129-Lienholder Notice 125.00

Sheriff –Stay Sale 125.00

Lexi Legal- Obtain Book & Writ 15.00

Federal Express 25.00

Attorney Fee-Additional Sale fee 350.00

TOTAL AMOUNT TO REINSTATE $11,378.43

THIS AMOUNT IS GOOD THRU 12/05/2006

NOTE:

1. **ANY ITEM MARKED "* " ANTICIPATED, IF NOT ACTUALLY EXPENDED, WILL BE REFUNDED TO MORTGAGOR IMMEDIATELY. ATTORNEY FEES ARE SUBJECT TO ADJUSTMENT PURUSANT TO PENNSYLVANIA ACT 6, IF APPLICABLE.**
2. **PAYMENTS MUST BE SENT TO OUR NEW JERSEY OFFICE and received by us no later than 12/04/2006.** Thereafter, the reinstatement amount may change, and your check might be returned to you.
3. The above cure amount must be by *****CASHIER'S CHECK, CHERTIFIED CHECK, OR MONEY ORDER payable to Udren Law Office**. Any other form of payment **will be returned** to you.

February 4, 2008

MAUREEN McCARTHY, RPR

Court Reporter

100 South Broad, 2nd Floor

Philadelphia, PA 19110

215-683-8107

maureen.mccarthy@courts.phila.gov

Ms. Patrice Harris

PO Box 24299 RE: Babichenko vs. Harris

Hearing 1/25/08 Judge Panepinto

Ms. Harris: The above transcript is ready and can be picked up at 100 S. Broad Street, 2nd Floor, Philadelphia, PA 19110. The cost is as follows:

107 pages @ $2.50 per page = $271.00.

Thank you.

/s/ Maureen McCarthy

Maureen McCarthy,

Official Court Reporter

Zachary Perlick, Esquire

42 South 15th Street

Suite 1111

Phila, PA 19102

Patrice Harris

6114 North 8th Street

Philadelphia, PA 19120

September 20, 2006 /s/ pmh

Dear Mr. Perlick:

Please file for the emergency dismissal today. I do not want to lose my opportunity to file a complaint against Novastar/Homecomings/J.P Morgan Chase or whomever is responsible for criminal acts involving my in financial interest in my home. I was informed that I only have a few days before the Statute of Limitations runs. Even though I made all of my trust payments, and event though I made every mortgage payment, Homecoming/Bank On/Udren has still managed to get the bankruptcy court through that recent stipulation agreement to raise my payments. This whole process has been unfair, and in my estimation illegal. It looks like I have two options. One is, continue to pay even though the amounts being required are fraudulent. If I do, Homecomings will continue to raise the interest (By the way, it is now back to 11.250%, which is what it was when I entered into my

agreement for a fixed rate). Every month, they will continue to put on higher property inspection fees (latest was 297.51), speed draft fees (a service I don't even use), unpaid NSF fees, frivolous filing and attorney fees, and other unexplained illegal charges that I'll never be able to pay. Then when my bankruptcy plan is over 11/07, they'll attach more charges. Although I love my home, and have done a lot to make it nice, I must not lose the opportunity to bring an action for the wrongful doings. I understand that I can only bring an action if the bankruptcy case is dismissed. That is the option I will take. Will you let me know the consequences of my course of action and what I can do to keep the house? Thank you.

Patrice Harris

/s/ Patrice Harris

6114 North 8th Street
Philadelphia, PA 19120

September 16, 2006

Zachary Perlick
42 South 15th Street
Philadelphia, PA 19102

Dear Mr. Perlick:

Will you get a hearing for me before Justice Raslavich? Is there a procedure for an amended order? I would like to schedule an appointment with you. I have been unsuccessful in reaching you for the past two weeks. I am not in agreement with the stipulation. As I stated to you earlier, the mortgage is fraudulent to begin with. Once again I declare, I did not sign for an adjustable mortgage. I finally have evidence of this fact and will begin to contact the appropriate authorities so this matter can be investigated. I have spent many hours spent many hours organizing my records. I cannot check #194. I am convinced Homecomings held onto it. I would not have told you I would send it and then not send it. My bank statements show that the money was available, and I don't believe I made that oversight. Please help me to resolve this matter. Thank you.

Sincerely,

/s/ Patrice Harris

Patrice Harris

financial issue PLAINTIFF LETTER TO ATORNEY DATED DECEMBER 12, 2005\

Plaintiff Letter to Attorney Date OCTOBER 29, 2004

When I first talked with you, I explained to you that I stopped my mortgage payments because I believe Homecomings was overcharging me, making it appear to be escrow for real estate taxes. Our agreement was that you would have my documents examined. It appears to me that nothing was done on my behalf, other than a filing a few motions to prevent a sheriff sale. Recently I received a letter of confirmation of my bankruptcy plan. I need a copy of the plan and an explanation of why my case was not handled as we agreed and I am left with not only the same, but additional debt than when I sought you legal help.

Sincerely,

Patrice Harris

EXHIBIT 22b

Attorney Letter Dated FEB 9, 2004 To PLAINTIFF

Once the case is filed with the Court you will be required to pay the regular monthly mortgage payments directly to Homecomings. The arrears will be paid through the Trustee. I will be sending you more information on this later. Your case will also include an examination of the escrow account that Homecomings maintains for you. Homecomings will

have about three months to provide us with documentation explaining their escrow charges and disbursements. Your original documents are enclosed. Please keep them, we may need originals at a later date. If you have any questions, please call me. Very truly yours,

FROM: Universal Graphics FAX NO.: 12155487100 Feb. 20 2006 04: 04PM P1

FAX 215 569 1444

February 20, 2006

Dear Mr. Perlick

Here are copies of my bank receipts for payments to Homecomings from Oct-Jan. February 2006 payment is in the mail, Check #194 for 381.35. My payments remained the same because I assure you, my interest rate agreement with NOVA Star was a fixed rate. I did not err and sign for an adjustable rate. Homecomings will not produce my signature for an adjustable rate mortgage. Maybe the reason NOVASTAR sold it so quickly was to work things as they have against me. I did not pay the real estate tax because as you may remember, Homecomings continued to charge me last year when I paid. There is a note on the 12/19/05 statement that Homecomings received an $1001.98 tax refund. I have the RE tax money. The statements need to be fixed. It reads that I am $ 7830.93 in arrears and a balance of $12, 658.57.

Enclosure /s/ Patrice Harris

Patrice Harris
6114 North 8th Street
Philadelphia, PA 19120

June 25, 2007

United States District Court
For the Eastern District of Pennsylvania
RE: Docket 07-0622

To the Honorable Judge Fullam:
On April 2, 2007, I filed a motion with the Court for a jury trial as of right. Defendants to this action were properly served. I am at this time requesting my right to a **trial by jury**. Arbitration is not appropriate for the following reasons:

1. The money damage requirement in the action exceeds that which is required for arbitration. The real estate property, which is the subject to this action, is valued at that amount, having been professionally appraised in September 2006. Damage costs as a result of the fraud and other violations alleged in the Complaint are in excess of the stated amount.
2. The case involves constitutional rights violations, specifically due process, equal protection and 13th amendment violations.

3. Jurisdiction of this case is under 28 U.S.C. Section 1343, relevant statutory provisions to be cited pending amendment of the complaint.
4. Defendant(s) to this action [have] consistently demonstrated unwillingness to fairly resolve the matter since the inception of the dispute.
5. My experience over the course of this dispute has provided me with insight into serious legal improprieties, thereby compelling the requirement for public eyes and ears in a matter that affects life, liberty, and property interest.

I am actively seeking an attorney to represent me in this matter, to date I am proceeding without legal representation. I would appreciate you favorable response.

Sincerely,
/s/ Patrice Harris
Patrice Harris
BA, MLS, JD

EXHIBIT 18a

Tues. Feb 3,

BERRY & PERLICK 5: 30 PM

ZACHARY PERLICK ESQUIRE
ATTORNEY AT LAW
42 S. 15th Street, Suite 1000 Phone (215) 569-2922
Philadelphia, PA 19102 Fax (215) 569-1444